Montana Legislative History

Chapter: Session L:

Bill Number: House / Senate

Checklist of Bill History

History and Final Status Sheet	x
Introduced Bill	X
Fiscal Note	X
Third Reading Bill	X
Final Version of Bill	X

House

Committee:
Judiciary

Hearing Date(s):

Marcj 26, 2021
April 14, 2021

Senate

Committee: Judiciary

Hearing Date(s):

Feb. 27, 2021
March 1, 2021

Conference Committee

Hearing Date(s): n/a

Compiler Notes

Compiled by:sg

Date: February 12,

2024

Notes:

Bill Draft Number: LC1058
Bill Type - Number: SB 344
Short Title: Allow for adult inmates at Pine Hills Youth Correctional Facility
Primary Sponsor: Kenneth Bogner (R) SD 19
Chapter Number: 339

Bill Actions - **Current Bill Progress:** Became Law

Bill Action Count: 51

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/30/2021			
(S) Signed by Governor	04/30/2021			
(S) Transmitted to Governor	04/28/2021			
(H) Signed by Speaker	04/28/2021			
(S) Signed by President	04/28/2021			
(C) Printed - Enrolled Version Available	04/26/2021			
(S) Returned from Enrolling	04/26/2021			
(S) Sent to Enrolling	04/21/2021			
(H) Returned to Senate	04/20/2021			
(H) 3rd Reading Concurred	04/20/2021	66	32	
(H) Scheduled for 3rd Reading	04/20/2021			
(H) 2nd Reading Concurred	04/15/2021	68	32	
(H) Scheduled for 2nd Reading	04/15/2021			
(H) Committee Report--Bill Concurred	04/14/2021			(H) Judiciary
(H) Committee Executive Action--Bill Concurred	04/14/2021	10	9	(H) Judiciary
(H) Hearing	03/26/2021			(H) Judiciary
(H) First Reading	03/08/2021			
(H) Referred to Committee	03/08/2021			(H) Judiciary
(S) Transmitted to House	03/02/2021			
(S) 3rd Reading Passed	03/02/2021	27	22	
(C) Printed - New Version Available	03/01/2021			
(S) Scheduled for 3rd Reading	03/01/2021			
(S) 2nd Reading Passed as Amended	03/01/2021	27	22	
(S) 2nd Reading Motion to Amend Carried	03/01/2021	49	0	
(S) Scheduled for 2nd Reading	03/01/2021			
(S) Committee Report--Bill Passed	03/01/2021			(S) Judiciary
(C) Amendments Available	03/01/2021			
(S) Committee Executive Action--Bill Passed	03/01/2021	7	4	(S) Judiciary
(S) Taken from Table in Committee	03/01/2021			(S) Judiciary
(S) Tabled in Committee	02/27/2021			(S) Judiciary
(S) Hearing	02/27/2021			(S) Judiciary
(S) Fiscal Note Printed	02/27/2021			
(S) Fiscal Note Received	02/26/2021			

(C) Introduced Bill Text Available Electronically	02/25/2021	
(S) Referred to Committee	02/23/2021	(S) Judiciary
(S) First Reading	02/23/2021	
(S) Fiscal Note Requested	02/22/2021	
(S) Introduced	02/22/2021	
(C) Draft Delivered to Requester	02/22/2021	
(C) Draft Ready for Delivery	01/07/2021	
(C) Executive Director Final Review	01/07/2021	
(C) Draft Ready for Delivery	01/07/2021	
(C) Draft in Assembly	01/07/2021	
(C) Executive Director Review	01/06/2021	
(C) Bill Draft Text Available Electronically	01/05/2021	
(C) Draft in Final Drafter Review	01/05/2021	
(C) Draft in Input/Proofing	01/04/2021	
(C) Draft to Drafter - Edit Review	01/02/2021	
(C) Draft in Edit	12/15/2020	
(C) Draft in Legal Review	12/14/2020	
(C) Draft Request Received	11/12/2020	

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Patelis	Jimmy	
Drafter	Weiss	Rachel	
Primary Sponsor	Bogner	Kenneth	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Corrections		Simple	CORR
Legislature		Simple	LEG
Minors (see also: Family Law)		Simple	MIN

Additional Bill Information

Fiscal Note Probable: Yes
Preintroduction Required: N
Session Law Ch. Number: 339
DEADLINE
Category: General Bills
Transmittal Date: 03/02/2021

Return (with 2nd house amendments) Date: 04/20/2021

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-21	

AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO REPURPOSE CORRECTIONAL FACILITIES SERVING YOUTH AND ADULT OFFENDERS; REDEFINING TERMS RELATED TO STATE YOUTH CORRECTIONAL FACILITIES AND STATE PRISONS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO HOLD CERTAIN YOUTH AND ADULT OFFENDERS IN THE SAME FACILITY SUBJECT TO CERTAIN CONDITIONS; REVISING LAWS RELATED TO EXCESSIVE CAPACITY FOR CERTAIN CORRECTIONAL FACILITIES THAT HOUSE YOUTH AND THE DEPARTMENT'S DETERMINATION OF ALTERNATIVE PLACEMENTS; REQUIRING THE DEPARTMENT TO PRIORITIZE YOUTH NEEDS WHEN CONSIDERING THE USE OF A FACILITY PREVIOUSLY USED TO HOUSE YOUTH; AND AMENDING SECTIONS 19-20-101, 20-4-134, 20-4-502, 20-9-327, 41-5-103, 41-5-106, 41-5-122, 41-5-206, 41-5-208, 41-5-355, 41-5-1416, 41-5-1430, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2005, 45-5-214, 45-7-307, 45-8-318, 46-5-112, 46-23-102, 46-23-201, 50-5-101, 50-5-301, 52-2-302, 52-5-101, 52-5-108, 52-5-109, 52-5-110, 52-5-111, 52-5-112, 52-5-113, 52-5-114, 52-5-120, 52-5-121, 52-5-126, 52-5-128, 53-1-104, 53-1-105, 53-1-107, 53-1-109, 53-1-201, 53-1-202, 53-1-203, 53-1-207, 53-30-101, 53-30-102, 53-30-141, AND 53-30-702, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-20-101, MCA, is amended to read:

"**19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings account, together with interest, minus any amount deducted for correction of errors and the aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on

behalf of the member.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that becomes a beneficiary pursuant to 19-20-1005.

(4) "Average final compensation" means a member's highest average earned compensation, determined pursuant to 19-20-805, on which all required contributions have been made.

(5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to this chapter by which a person authorized by law designates one or more beneficiaries.

(6) "Beneficiary designation record" means either the hard copy form or electronic record prescribed by the retirement system and used by a person authorized by law to designate one or more beneficiaries.

(7) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a retirement allowance.

(8) "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or refund of accumulated contributions payable if there is no eligible primary beneficiary.

(9) "Creditable service" is that service defined by 19-20-401.

(10) "Date of termination" or "termination date" means the last date on which a member performed service in a position reportable to the retirement system.

(11) "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries designated pursuant to 19-20-1006.

(12) (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted.

(b) Earned compensation does not include:

(i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

(iv) any noncash benefit provided by an employer to or on behalf of a member;

(v) termination pay unless included pursuant to 19-20-716;

(vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

(vii) payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

(viii) incentive or bonus payments paid to a member that are not part of a series of annual payments;

(ix) a professional stipend paid pursuant to 20-4-134; or

(x) any similar payment or reimbursement made to or on behalf of a member by an employer.

(c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(13) "Employer" means:

(a) the state of Montana;

(b) a public school district, as provided in 20-6-101 and 20-6-701;

(c) the office of public instruction;

(d) the board of public education;

(e) an education cooperative;

(f) the Montana school for the deaf and blind, as described in 20-8-101;

(g) the Montana youth challenge program, as defined in 10-1-101;

(h) a ~~state youth~~ correctional facility, as defined in 41-5-103;

(i) the Montana university system;

(j) a community college; or

(k) any other agency, political subdivision, or instrumentality of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.

(14) "Extra duty service" means service in an educational services capacity that is not compensated as part of the normally assigned duties and functions of a school district teacher, administrator, or other employee but is regularly assigned to one or more school district teachers, administrators, or other employees as part of the regular operation of the school district's curricular and extracurricular programs.

(15) "Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.

(16) "Individual" means a human being.

(17) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(18) "Joint annuitant" means the one person that a retired member who has elected an optional allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of the retired member.

(19) "Member" means a person who has an individual account in the annuity savings account. Unless otherwise specified, "member" refers to a tier one member or a tier two member.

(20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the lifetime of the retired member.

(21) "Normal retirement age" means an age no earlier than 60 years of age.

(22) "Part-time service" means service that is not full-time service. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(23) "Position reportable to the retirement system" means a position in which an individual performs duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(24) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or refund of accumulated contributions payable upon the death of the individual authorized by law to make the designation.

(25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(26) "Retired", "retired member", or "retiree" means a person who is considered in retired member status under the provisions of 19-20-810.

(27) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

(28) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

(29) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

(30) "Service" means the performance of duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(31) "Termination" or "terminate" means that the employment relationship between the member and the member's employer has been terminated as required in 19-20-810.

(32) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

(33) "Tier one member" means a person who became a member before July 1, 2013, and who has not withdrawn the member's account balance.

(34) "Tier two member" means a person who became a member on or after July 1, 2013, or who, after

withdrawing the member's account balance, became a member again after July 1, 2013.

(35) "Vested" means that a member has been credited with at least 5 full years of membership service upon which contributions have been made and has a right to a future retirement benefit.

(36) "Written application" or "written election" means a written instrument, required by statute or the rules of the board, properly signed and filed with the board, that contains all the required information, including documentation that the board considers necessary."

Section 2. Section 20-4-134, MCA, is amended to read:

"**20-4-134. Professional stipends for teachers certified by national board for professional teaching standards.** (1) Pursuant to subsection (5), an annual stipend of up to $1,500 must be provided to each teacher who holds a current certificate from the national board for professional teaching standards if the teacher is:

(a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered by national board certification assessment;

(b) certified to teach in Montana under the provisions of 20-4-103; and

(c) a full-time employee of:

(i) a Montana public school district, as defined in 20-6-101;

(ii) an education cooperative, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; or

(iv) a ~~state youth~~ correctional facility, as defined in 41-5-103.

(2) An annual stipend of up to $2,500 must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an instructional assignment in a school identified as:

(a) a school in a high-poverty area eligible to participate in the community eligibility provision under Public Law 111-296; or

(b) an impacted school as defined in 20-4-502.

(3) A teacher becomes eligible for the stipend in subsection (1) in the school year beginning July 1 after the teacher obtains certification or recertification from the national board for professional teaching standards.

(4) By March 1, the superintendent of public instruction shall distribute stipend payments to any entity listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

(5) The obligation for funding a portion of the professional stipends is an obligation of the state. This section may not be construed to require a school district to provide its matching portion of a stipend to a qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of the stipends.

(6) (a) For a stipend under subsection (1), the state shall pay $500 and another $1 for each $1 contributed by the teacher's school district, up to a maximum state contribution of $1,000.

(b) For a stipend under subsection (2), the state shall pay $1,000 and another $2 for each $1 contributed by the teacher's school district, up to a maximum state contribution of $2,000."

Section 3. Section 20-4-502, MCA, is amended to read:

"**20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Critical quality educator shortage area" means a specific licensure or endorsement area in an impacted school in which:

(a) in any of the 3 immediate preceding school fiscal years a position was:

(i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;

(ii) filled from a candidate pool of less than five qualified candidates; or

(iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period in excess of 30 days; or

(b) a vacancy for the current school year was advertised for a period of at least 30 days and the district received less than five applications from qualified candidates.

(2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

(3) "Educational loans" means all loans made pursuant to a federal loan program, except federal

parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

(4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(5) "Impacted school" means:

(a) a special education cooperative;

(b) the Montana school for the deaf and blind, as described in 20-8-101;

(c) the Montana youth challenge program, as established in 10-1-1401;

(d) a ~~state youth~~ correctional facility, as defined in 41-5-103;

(e) a public school located on an Indian reservation; and

(f) a public school that, driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.

(6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (6)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (6)(b) of this section to provide services to students.

(b) For purposes of subsection (6)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) the Montana youth challenge program; and

(v) a ~~state youth~~ correctional facility, as defined in 41-5-103.

(7) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

Section 4. Section 20-9-327, MCA, is amended to read:

"**20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) ~~state youth~~ correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills ~~youth~~ correctional facility and the facility under contract with the department of corrections for female youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14. (Subsection (3)(c) terminates June 30, 2023--sec. 1, Ch. 171, L. 2019.)"

Section 5. Section 41-5-103, MCA, is amended to read:

"**41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Conditional release" means the release of a youth from a ~~state youth~~ correctional facility subject to the terms and conditions of the conditional release agreement provided for in 52-5-126.

(6) (a) "Correctional facility" means a public secure residential facility or a private~~, physically~~ secure residential facility under contract with the department and operated ~~solely for the purpose of housing adjudicated delinquent youth~~ to provide for the custody, treatment, training, and rehabilitation of:

(i) formally adjudicated delinquent youth;

(ii) convicted adult offenders or criminally convicted youth; or

(iii) a combination of the populations described in subsections (6)(a)(i) and (6)(a)(ii) under conditions set by the department in rule.

(b) The term does not include a state prison as defined in 53-30-101.

(7) "Cost containment pool" means an account from which funds are allocated by the office of court administrator under 41-5-132 to a judicial district that exceeds its annual allocation for juvenile out-of-home placements, programs, and services or to the department for costs incurred under 41-5-1504.

(8) "Cost containment review panel" means the panel established in 41-5-131.

(9) "Court", when used without further qualification, means the youth court of the district court.

(10) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

(11) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

(12) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense;

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation; or

(c) who has violated the terms and conditions of the youth's conditional release agreement.

(13) "Department" means the department of corrections provided for in 2-15-2301.

(14) (a) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b).

(b) Department records do not include information provided by the department to the department of public health and human services' management information system or information maintained by the youth court through the office of court administrator.

(15) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;

(b) contempt of court or violation of a valid court order; or

(c) violation of the terms and conditions of the youth's conditional release agreement.

(16) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(17) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days to protect the youth when there is no alternative placement available.

(18) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

(19) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

(20) (a) "Formal youth court records" means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(21) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

(22) "Guardian" means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(23) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts of a day, whichever is less, in 1 school year.

(24) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(25) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(26) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a collocated juvenile detention facility that complies with 28 CFR, part 31.

(27) "Judge", when used without further qualification, means the judge of the youth court.

(28) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(29) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(30) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and

(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(31) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(32) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

(33) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an

adjudication or by other clear and convincing proof.

(34) "Probable cause hearing" means the hearing provided for in 41-5-332.

(35) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

(36) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

(37) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

(38) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional release agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(39) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(40) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(41) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(42) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

~~(43) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the correctional facility under contract with the department for female youth.~~

~~(44)~~(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of

providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

~~(45)~~(44) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection ~~(45)(a)~~ (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

~~(46)~~(45) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(47)~~(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

~~(48)~~(47) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

~~(49)~~(48) "Youth care facility" has the meaning provided in 52-2-602.

~~(50)~~(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth alleged to have violated the terms and conditions of the youth's conditional release agreement and includes the youth court judge, juvenile probation officers, and assessment officers.

~~(51)~~(50) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a collocated secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional release agreement, or violation of a valid court order.

~~(52)~~(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention."

Section 6. Section 41-5-106, MCA, is amended to read:

"**41-5-106. Order of adjudication -- noncriminal.** ~~No~~ A placement of any youth in any ~~state youth~~ correctional facility under this chapter ~~shall~~ may not be deemed commitment to a penal institution. ~~No~~ An adjudication ~~upon~~ on the status of any youth in the jurisdiction of the court ~~shall~~ may not operate to impose any of the civil disability imposed on a person by reason of conviction of a criminal offense~~,~~. ~~nor shall such~~ An adjudication may not be deemed a criminal conviction, ~~nor shall any~~ and a youth may not be charged with or convicted of any crime in any court except as provided in this chapter. Neither the disposition of a youth under this chapter nor evidence given in youth court proceedings under this chapter ~~shall be~~ is admissible in evidence except as otherwise provided in this chapter."

Section 7. Section 41-5-122, MCA, is amended to read:

"**41-5-122. Duties of youth placement committee.** A youth placement committee shall:

(1) review all information relevant to the placement of a youth;

(2) consider available resources appropriate to meet the needs of the youth;

(3) consider the treatment recommendations of any professional person who has evaluated the youth;

(4) consider options for the financial support of the youth;

(5) recommend in writing to the youth court judge or the department an appropriate placement for the youth, considering the age and treatment needs of the youth and the relative costs of care in facilities

considered appropriate for placement. A committee shall consider placement in a licensed facility, at a ~~state youth~~ correctional facility, or with a parent, other family member, or guardian.

(6) review temporary and emergency placements as required under 41-5-124; and

(7) conduct placement reviews at least every 6 months and at other times as requested by the youth court."

Section 8. Section 41-5-206, MCA, is amended to read:

"**41-5-206. Filing in district court prior to formal proceedings in youth court.** (1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) sexual intercourse without consent as defined in 45-5-503;

(ii) deliberate homicide as defined in 45-5-102;

(iii) mitigated deliberate homicide as defined in 45-5-103;

(iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

(v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) negligent homicide as defined in 45-5-104;

(ii) arson as defined in 45-6-103;

(iii) aggravated assault as defined in 45-5-202;

(iv) sexual assault as provided in 45-5-502(3);

(v) assault with a weapon as defined in 45-5-213;

(vi) robbery as defined in 45-5-401;

(vii) burglary or aggravated burglary as defined in 45-6-204;

(viii) aggravated kidnapping as defined in 45-5-303;

(ix) possession of explosives as defined in 45-8-335;

(x) criminal distribution of dangerous drugs as defined in 45-9-101;

(xi) criminal possession of dangerous drugs as defined in 45-9-102(3);

(xii) criminal possession with intent to distribute as defined in 45-9-103(1);

(xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;

(xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;

(xv) escape as defined in 45-7-306;

(xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv).

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will serve the interests of community protection;

(b) the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

(6) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate ~~juvenile or adult~~ correctional facility. The department shall confine the youth in an institution that it considers proper, including a ~~state youth~~ correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(7) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses."

Section 9. Section 41-5-208, MCA, is amended to read:

"**41-5-208. Transfer of supervisory responsibility to district court after juvenile disposition -- nonextended jurisdiction and nontransferred cases.** (1) After adjudication by the court of a case that was not transferred to district court under 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile prosecution under part 16 of this chapter, the court may, on the youth's motion or the motion of the county attorney, transfer jurisdiction to the district court and order the transfer of supervisory responsibility from juvenile probation services to adult probation services. A transfer under this section may be made to ensure

continued compliance with the court's disposition under 41-5-1512 or 41-5-1513 and may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age.

(2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel, and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

(a) written notice of the motion to transfer;

(b) an opportunity to be heard in person and to present witnesses and evidence;

(c) a written statement by the court of the evidence relied on and reasons for the transfer;

(d) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) the right to counsel.

(3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing supervisory responsibility to the district court is appropriate, the court shall order the transfer.

(4) If a youth whose case has been transferred to district court under this section violates a disposition previously imposed under 41-5-1512 or 41-5-1513, the district court may, after hearing, impose conditions as provided under 46-18-201 through 46-18-203 but may not place a youth in a state adult correctional facility unless the youth was adjudicated for a felony offense.

(5) If, at the time of transfer, the youth is incarcerated in a ~~state youth~~ correctional facility, the district court may order that the youth, after reaching 18 years of age:

(a) be incarcerated in a state adult correctional facility if the youth was adjudicated for a felony offense, boot camp, or prerelease center; or

(b) be supervised by the department.

(6) The district court's jurisdiction over a case transferred under this section terminates when the youth reaches 25 years of age."

Section 10. Section 41-5-355, MCA, is amended to read:

"**41-5-355. ~~Excessive juvenile population -- confinement~~ Confinement of juveniles ~~in alternate placements.~~** (1) The department shall determine the capacity ~~for state youth~~ of correctional facilities. ~~The department shall notify all district courts, sheriffs, and youth courts of the capacity for each state youth correctional facility by sending a report to each annually.~~

~~(2) If the population of a state youth correctional facility exceeds the capacity established by the department, the director of the department may declare that the capacity has been exceeded and temporarily stop admissions to the facility. The director shall notify each district court, sheriff, and youth court that delinquent or criminally convicted youth will not be accepted by the department for admission into the facility until the population is reduced to less than the capacity determined by the department in subsection (1).~~

~~(3)~~(2) ~~If the director of the~~ The department ~~declares that the capacity has been exceeded, the department shall~~ may place delinquent youth committed to a ~~state youth~~ correctional facility or criminally convicted youth ~~in alternate placements~~ based on the needs of the ~~delinquent youth or criminally convicted~~ youth. ~~If a youth is denied placement in a state youth correctional facility under this section, the department shall inform and seek approval of the district court of the intended alternative placement prior to placing the youth.~~

~~(4)~~(3) The department may enter into contracts with the federal government, other states, local governments, public or private corporations, and other entities that have suitable facilities for confining delinquent youth or criminally convicted youth committed to the department~~, either because a state youth correctional facility has exceeded its capacity or because the department has no youth correctional facility that is adequate for certain delinquent youth or criminally convicted youth~~."

Section 11. Section 41-5-1416, MCA, is amended to read:

"**41-5-1416. Victims and witnesses of juvenile felony offenses -- consultation -- notification of proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided under Title 46, chapter 24, to a victim or witness of a crime are also provided to the victim or witness of a juvenile felony offense.

(2) In a proceeding filed under this part, the county attorney or a designee shall consult with the victim of a juvenile felony offense regarding the disposition of the case, including:

(a) a dismissal of the petition filed under 41-5-1402;

(b) a reduction of the charge to misdemeanor;

(c) the release of the youth from detention or shelter care pending the adjudicatory hearing or pending a probable cause hearing. The consultation required by this subsection (2)(c) must take place prior to the youth's release, whether or not the county attorney or designee has received information from the victim under subsection (3)(a), unless the county attorney or designee is unable to contact the victim after making a good faith effort to contact the victim.

(d) the disposition of the youth.

(3) (a) Whenever possible, a person described in subsection (3)(b) who provides the appropriate agency with a current address and telephone number must receive prompt advance notification of youth court case proceedings, including:

(i) the filing of a petition under 41-5-1402;

(ii) the release of the youth from detention or shelter care; and

(iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent decree under 41-5-1501, the setting of a date for the adjudicatory hearing under 41-5-1502, the setting of a date for the dispositional hearing under 41-5-1511, the disposition made, and the release of the youth from a ~~youth~~ correctional facility.

(b) A person entitled to notification under this subsection (3) must be a victim, as defined in 41-5-103, of a juvenile felony offense.

(c) The county attorney or a designee who provides the consultation regarding the disposition of a case required in subsection (2) shall give the victim the opportunity to provide the victim's current telephone number and address and shall provide the victim with the name and address of the agency or agencies responsible for operation of youth detention, correctional, or shelter care facilities that are responsible for the custody of the youth.

(d) The appropriate official or agency shall provide the notification required by this subsection (3) in the same manner as required for offenses committed by adults.

(4) For purposes of this section, "juvenile felony offense" means an offense committed by a juvenile that, if committed by an adult, would constitute a felony offense. The term includes any offense for which a

juvenile may be declared a serious juvenile offender, as defined in 41-5-103."

Section 12. Section 41-5-1430, MCA, is amended to read:

"**41-5-1430. Conditional release revocation hearing.** (1) (a) If a county attorney files a petition to revoke a youth's conditional release, the court shall hold a revocation hearing without a jury within 10 working days after the petition is filed, except as provided in subsection (1)(b).

(b) (i) If a youth alleged to have violated the terms and conditions of the youth's conditional release agreement has been taken into custody and placed in detention, the court shall conduct a probable cause hearing in accordance with 41-5-332 through 41-5-334.

(ii) If the court determines that there is probable cause to believe that the youth has violated the terms and conditions of the youth's conditional release agreement and the county attorney determines that revocation is warranted, the county attorney shall file a petition to revoke within 7 working days. The court shall hold a revocation hearing without a jury within 10 working days after the petition has been filed.

(iii) If the county attorney does not file a petition to revoke, the youth must be released unless good cause is shown to further detain the youth.

(2) In regard to the conditional release revocation hearing, the youth is entitled to:

(a) receive written notice of the alleged violation of the terms and conditions of the youth's conditional release;

(b) receive evidence of the alleged violation;

(c) an opportunity to be heard in person or by interactive video transmission and to present witnesses and evidence;

(d) cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) be represented by counsel.

(3) After the revocation hearing, if the court finds by a preponderance of the evidence presented that the youth has violated the terms and conditions of the youth's conditional release, the court may revoke the youth's conditional release and return the youth to a ~~state youth~~ correctional facility or make any other judgment or disposition that could have been made under the original judgment."

Section 13. Section 41-5-1503, MCA, is amended to read:

"**41-5-1503. Medical or psychological evaluation of youth -- urinalysis.** (1) The youth court may order a youth to receive a medical or psychological evaluation at any time prior to final disposition if the youth waives the youth's constitutional rights in the manner provided for in 41-5-331. Except as provided in subsection (2), the youth court shall pay for the cost of the evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(2) The youth court shall determine the financial ability of the youth's parents or guardians to pay the cost of an evaluation ordered by the court under subsection (1). If they are financially able, the court shall order the youth's parents or guardians to pay all or part of the cost of the evaluation.

(3) Subject to 41-5-1512(1)(o)(i), the youth court may not order an evaluation or placement of a youth at a ~~state youth~~ correctional facility unless the youth is found to be a delinquent youth or is alleged to have committed an offense that is listed in 41-5-206.

(4) An evaluation of a youth may not be performed at the Montana state hospital.

(5) In a proceeding alleging a youth to be a delinquent youth, upon a finding of an offense related to use of alcohol or illegal drugs, the court may order the youth to undergo urinalysis for the purpose of determining whether the youth is using alcoholic beverages or illegal drugs."

Section 14. Section 41-5-1504, MCA, is amended to read:

"**41-5-1504. Finding of suffering from mental disorder and meeting other criteria -- rights -- limitation on placement.** (1) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 53-21-119.

(2) A youth who, prior to placement or sentencing, is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) may not be committed or sentenced to a ~~state youth~~ correctional facility.

(3) (a) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1), after placement in or sentencing to a ~~state youth~~ correctional facility must be moved to a more appropriate placement in response to the youth's mental health needs and consistent with the

disposition alternatives available in 53-21-127.

(b) (i) If before removing the youth from the facility the department determines that it will request funds for the youth's placement from the cost containment pool as provided for in 41-5-132, the department may ask the cost containment review panel to make recommendations to the department about the most appropriate placement for the youth. The department shall provide the cost containment review panel with sufficient information about the youth to allow the panel to make its recommendations, and the department shall consider the panel's recommendations before making its placement decision.

(ii) The department may request at any time from the cost containment review panel recommendations regarding the youth's placement.

(iii) The cost containment review panel shall establish protocols for making recommendations to the department under this section."

Section 15. Section 41-5-1512, MCA, is amended to read:

"**41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee if a committee has been established as provided for in 41-5-121.

(c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the

youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based on the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention, supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a ~~youth~~ correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection (1)(o)(iii), the court shall pay the cost of the placement for evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days; or

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator."

Section 16. Section 41-5-1513, MCA, is amended to read:

"**41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

(a) any one or more of the dispositions provided in 41-5-1512;

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for placement in a ~~state youth~~ correctional facility or other appropriate program as determined by the department

and recommend to the department that the youth not be released until the youth reaches 18 years of age. ~~The provisions of 41-5-355relating to alternative placements apply to placements under this subsection (1)(b).~~ The court may not place a youth adjudicated to be a delinquent youth in a ~~state youth~~ correctional facility for an act that would be a misdemeanor if committed by an adult unless:

(i) the youth committed four or more misdemeanors in the prior 12 months;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a ~~state youth~~ correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a ~~state youth~~ correctional facility.

(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, the youth is exempt from the duty to register as a sexual offender pursuant to Title 46, chapter 23, part 5, unless the court finds that:

(i) the youth has previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; or

(ii) registration is necessary for protection of the public and that registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed in a ~~state youth~~ correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a ~~youth~~ correctional facility. Once a youth is committed to the department for placement in a ~~state youth~~ correctional facility, the department is responsible for determining an appropriate date of release or an alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509;

(c) require completion of sexual offender treatment; and

(d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the supervision of the offender is transferred to the department.

(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or conditional release, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent.

(4) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth, except as provided in 52-5-109.

(5) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator.

(6) The duration of registration for a youth who is required to register as a sexual or violent offender must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration."

Section 17. Section 41-5-1522, MCA, is amended to read:

"**41-5-1522. Commitment to department -- restrictions on placement.** When a youth is committed to the department, the department shall determine the appropriate placement and rehabilitation program for the youth while the youth is in a correctional facility or other program operated by or under contract with the department after considering the recommendations made by the youth placement committee if a committee has been established as provided for in 41-5-121. Placement is subject to the following limitations:

(1) A youth may not be held in a ~~state youth~~ correctional facility for a period of time in excess of the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court.

(2) A youth may not be placed in or transferred to a ~~state adult~~ correctional facility ~~or other facility used for the execution of sentences of adults convicted of crimes~~ that does not provide sight and sound separation from adult offenders as required in 28 CFR 115.14.

(3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent adjustment in a ~~state youth~~ correctional facility."

Section 18. Section 41-5-1523, MCA, is amended to read:

"**41-5-1523. Commitment to department or youth court -- supervision.** (1) A youth placed in a ~~state youth~~ correctional facility or other facility or program operated by or under contract with the department is under the control of the department until the youth is discharged, transferred, or placed on conditional release by the department. Before a youth is placed on conditional release, a conditional release agreement must be developed and signed as provided in 52-5-126.

(2) A youth who is placed on conditional release must be supervised by a juvenile probation officer of the youth court.

(3) A youth placed in any private, out-of-home facility by the youth court must be supervised by a juvenile probation officer of the youth court.

(4) Responsibilities of the juvenile probation officer relating to placement of the youth include but are not limited to:

(a) if a youth placement committee has been established as provided for in 41-5-121, submitting information and documentation necessary for the committee that is making the placement recommendation to determine an appropriate placement for the youth;

(b) securing approval for payment of special education costs from the youth's school district of residence or the office of public instruction, as required in Title 20, chapter 7, part 4;

(c) submitting an application to a facility in which the youth may be placed; and

(d) managing the youth's case while in a private, out-of-home facility and upon release until supervision is terminated by the youth court."

Section 19. Section 41-5-2002, MCA, is amended to read:

"**41-5-2002. Purpose.** The purposes of this part are to:

(1) provide an alternate method of funding juvenile out-of-home placements, programs, and services;

(2) increase the ability of youth courts to respond to juvenile delinquency through early intervention and expanded community alternatives;

(3) enhance the ability of youth courts to control costs;

(4) enhance community safety, hold youth accountable, and promote the competency development of youth;

(5) use local resources for the placement of troubled youth, when appropriate and available;

(6) reduce placements in out-of-state residential facilities and programs; and

(7) use ~~state youth~~ correctional facilities when appropriate."

Section 20. Section 41-5-2005, MCA, is amended to read:

"**41-5-2005. Youth placement committee recommendation to youth court judge -- acceptance or rejection.** (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or 41-

5-1513, a youth placement committee may be established as provided for in 41-5-121. Except as provided in subsection (1)(b), the committee, if established, shall submit in writing to the youth court judge its primary and alternative recommendations for placement of the youth.

(b) An alternative recommendation is unnecessary if the committee's recommendation is placement in a ~~youth~~ correctional facility.

(2) The committee shall first consider placement of the youth in a community-based facility or program and shall give priority to placement of the youth in a facility or program located in the state of Montana.

(3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services are not appropriate.

(4) The primary and alternative recommendations of the youth placement committee must be for similar facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the recommended placements are dissimilar.

(5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make an appropriate placement for the youth.

(6) The youth court may not order a placement or change of placement that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator.

(7) The youth court shall evaluate the cost of the placement or change of placement and ensure that the placement or change of placement will not overspend the annual allocation provided by the office of court administrator under 41-5-130."

Section 21. Section 45-5-214, MCA, is amended to read:

"**45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if the person purposely causes one of the person's bodily fluids to make physical contact with:

(a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care provider, as defined in 50-4-504, including a health care provider performing emergency services, while the

health care provider is acting in the course and scope of the health care provider's profession and occupation:

(i) during or after an arrest for a criminal offense;

(ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or regional jail or detention facility, or a health care facility; or

(iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, ~~state youth~~ correctional facility as defined in 41-5-103, health care facility, or shelter care facility; or

(b) an emergency responder.

(2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed $1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

(3) The youth court has jurisdiction of any violation of this section by a minor.

(4) As used in this section, the following definitions apply:

(a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

(b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency care provider, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

Section 22. Section 45-7-307, MCA, is amended to read:

"**45-7-307. Transferring illegal articles -- unauthorized communication.** (1) (a) A person commits the offense of transferring illegal articles if the person knowingly or purposely transfers any illegal article or weapon to a person subject to official detention or is transferred any illegal article or weapon by a person subject to official detention.

(b) A person convicted of transferring illegal articles or a weapon shall be:

(i) imprisoned in a state prison for a term not to exceed 20 years, if the item transferred is a weapon;

(ii) imprisoned in a state prison for a term not to exceed 10 years, if the illegal article is a dangerous

drug, as defined in 50-32-101; or

(iii) imprisoned in a state prison for a term not to exceed 13 months or be fined an amount not more than $1,500, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a state prison, as defined in 53-30-101~~(3)(c)~~, or be fined an amount not more than $100 or be imprisoned in the county jail for any term not to exceed 10 days, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a place other than a state prison.

(c) Subsection (1)(b)(iii) does not apply unless the offender knew or was given sufficient notice so that the offender reasonably should have known that the article conveyed was an illegal article.

(2) (a) A person commits the offense of unauthorized communication if the person knowingly or purposely communicates with a person subject to official detention without the consent of the person in charge of the official detention.

(b) A person convicted of the offense of unauthorized communication shall be fined an amount not to exceed $100 or imprisoned in the county jail for any term not to exceed 10 days, or both."

Section 23. Section 45-8-318, MCA, is amended to read:

"**45-8-318. Possession of deadly weapon by prisoner or youth in facility.** (1) A person commits the offense of possession of a deadly weapon by a prisoner if the person purposely or knowingly possesses or carries or has under the person's custody or control without lawful authority a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife, razor not including a safety razor, or other deadly weapon while the person is:

(a) a person committed to a state prison or incarcerated in a county jail, city jail, or regional jail and is:

(i) at a state prison, a state prison farm or ranch, or jail;

(ii) being conveyed to or from a place listed in this subsection (1)(a); or

(iii) under the custody of prison or jail officials, officers, or employees; or

(b) a person in a youth detention facility, secure detention facility, regional detention facility, short-term detention center, ~~state youth~~ correctional facility, or shelter care facility, as those terms are defined in 41-5-103, and is at the facility, being conveyed to or from the facility, or under the custody of the facility officials, officers, or employees.

(2) A person convicted of the offense of possession of a deadly weapon by a prisoner shall be punished by imprisonment in the state prison for a term not less than 5 years or more than 15 years, by a fine of not more than $50,000, or by both fine and imprisonment.

(3) The youth court has jurisdiction of any violation of subsection (1)(b) unless the charge is filed in district court, in which case the district court has jurisdiction."

Section 24. Section 46-5-112, MCA, is amended to read:

"**46-5-112. Electronic data privacy -- warrant required -- exceptions.** (1) Except as provided in subsection (2), a government entity may not obtain the stored data of an electronic device without a search warrant issued by a court upon a finding of probable cause.

(2) A government entity may obtain the stored data of an electronic device without a search warrant:

(a) with the consent of the owner or authorized user of the electronic device;

(b) in accordance with judicially recognized exceptions to warrant requirements;

(c) if the owner has voluntarily and publicly disclosed the stored data;

(d) if the government entity, in good faith, believes that an emergency involving danger, death, or serious physical injury to a person requires immediate disclosure of communications relating to the emergency;

(e) in order to respond to the user's call for emergency services; or

(f) for any electronic devices found within the confines of ~~an adult or youth~~ a correctional facility.

(3) Nothing in 46-5-111 through 46-5-113 may be construed to limit a government entity's ability to use, maintain, or store information on its own electronic devices or to disseminate information stored on its own electronic devices.

(4) Sections 46-5-111 through 46-5-113 do not apply to motor carrier safety or hazardous materials programs implemented by the department of transportation for purposes of complying with federal motor carrier safety regulations."

Section 25. Section 46-23-102, MCA, is amended to read:

"**46-23-102. Cases of juveniles excluded.** The provisions of parts 1, 2, 3, and 10 of this chapter do not apply to probation in the youth courts or to conditional release from ~~state youth~~ correctional facilities."

Section 26. Section 46-23-201, MCA, is amended to read:

"**46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

(b) sentenced to the state prison and confined in a prerelease center;

(c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a ~~youth~~ correctional facility as defined in 41-5-103;

(d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for any other offense before a hearing panel conducts another hearing or review."

Section 27. Section 50-5-101, MCA, is amended to read:

"**50-5-101. Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Accreditation association for ambulatory health care" means the organization nationally

recognized by that name that surveys outpatient centers for surgical services upon their requests and grants accreditation status to the outpatient centers for surgical services that it finds meet its standards and requirements.

(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (5), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.

(7) "Assisted living facility" means a congregate residential setting that provides or coordinates personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-

related services.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(12) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(15) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(16) "Construction" means the physical erection of a health care facility and any stage of the physical

erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

(17) "Council on accreditation" means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.

(18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

(19) "Department" means the department of public health and human services provided for in 2-15-2201.

(20) "DNV healthcare, inc." means the company nationally recognized by that name that surveys hospitals upon their requests and grants accreditation status to a hospital that it finds meets its standards and requirements.

(21) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

(22) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(23) "Federal acts" means federal statutes for the construction of health care facilities.

(24) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(25) "Healthcare facilities accreditation program" means the program nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

(26) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals, infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical

assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(27) "Home health agency" means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(28) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

(29) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.

(30) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(31) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority. A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days

a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(32) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmary--A" provides outpatient and inpatient care;

(b) an "infirmary--B" provides outpatient care only.

(33) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(34) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(35) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(36) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(37) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or

more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the authority of the department of corrections.

(38) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(39) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(40) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(41) "Offer" means the representation by a health care facility that it can provide specific health services.

(42) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(43) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(44) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(45) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(46) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(47) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(48) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(49) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(51) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(52) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(53) "Residential psychiatric care" means active psychiatric treatment provided in a residential treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or

behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(54) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(55) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(56) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(57) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

(i) patients with a cardiac condition;

(ii) patients with an orthopedic condition;

(iii) patients undergoing a surgical procedure; or

(iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (57), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term "specialty hospital" does not include:

(i) psychiatric hospitals;

(ii) rehabilitation hospitals;

(iii) children's hospitals;

(iv) long-term care hospitals; or

(v) critical access hospitals.

(58) "State health care facilities plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(59) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either

acute care or extended skilled nursing care to a patient.

(60) "The joint commission" means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements."

Section 28. Section 50-5-301, MCA, is amended to read:

"**50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted an application for and is the holder of a certificate of need granted by the department, the person may not initiate any of the following:

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that exceeds $1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which an expenditure is made must be included in determining if the expenditure exceeds $1.5 million.

(b) a change in the bed capacity of a health care facility through an increase in the number of beds or a relocation of beds from one health care facility or site to another, unless:

(i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated during the 2 years prior to the date on which the letter of intent for the proposal is received;

(ii) a letter of intent is submitted to the department; and

(iii) the department determines that the proposal will not significantly increase the cost of care provided or exceed the bed need projected in the state health care facilities plan;

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of $150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or more of an existing health care facility unless:

(i) the person submits the letter of intent required by 50-5-302(2); and

(ii) the department finds that the acquisition will not significantly increase the cost of care provided or increase bed capacity;

(e) the construction, development, or other establishment of a health care facility that is being replaced or that did not previously exist, by any person, including another type of health care facility;

(f) the expansion of the geographical service area of a home health agency;

(g) the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101;

(h) the provision by a hospital of services for home health care, long-term care, or inpatient chemical dependency treatment; or

(i) the construction, development, or other establishment of a facility for ambulatory surgical care through an outpatient center for surgical services in a county with a population of 20,000 or less according to the most recent federal census or estimate.

(2) For purposes of this part, the following definitions apply:

(a) "Health care facility" or "facility" means a nonfederal home health agency, a long-term care facility, or an inpatient chemical dependency facility. The term does not include:

(i) a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection (1)(h);

(ii) an office of a private physician, dentist, or other physical or mental health care professionals, including licensed addiction counselors; or

(iii) a rehabilitation facility or an outpatient center for surgical services.

(b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

(ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels,

motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals not requiring institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the authority of the department of corrections.

(3) This section may not be construed to require a health care facility to obtain a certificate of need for a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a health care facility."

Section 29. Section 52-2-302, MCA, is amended to read:

"**52-2-302. Definitions.** The following definitions apply to this part:

(1) (a) "High-risk child with multiagency service needs" means a child under 18 years of age who is seriously emotionally disturbed, who is placed or who imminently may be placed in an out-of-home setting, and who has a need for collaboration from more than one state agency in order to address the child's needs.

(b) The term does not include a child incarcerated in a ~~state youth~~ correctional facility as defined in 41-5-103.

(2) "Least restrictive and most appropriate setting" means a setting in which a high-risk child with multiagency service needs is served:

(a) within the child's family or community; or

(b) outside the child's family or community where the needed services are not available within the child's family or community and where the setting is determined to be the most appropriate alternative setting based on:

(i) the safety of the child and others;

(ii) ethnic and cultural norms;

(iii) preservation of the family;

(iv) services needed by the child and the family;

(v) the geographic proximity to the child's family and community if proximity is important to the child's treatment.

(3) "Provider" means an agency of state or local government, a person, or a program authorized to provide treatment or services to a high-risk child with multiagency service needs who is suffering from mental,

behavioral, or emotional disorders.

(4) "Services" has the meaning as defined in 52-2-202.

(5) "System of care" means an integrated service support system that:

(a) emphasizes the strengths of the child and the child's family;

(b) is comprehensive and individualized; and

(c) provides for:

(i) culturally competent and developmentally appropriate services in the least restrictive and most appropriate setting;

(ii) full involvement of families and providers as partners;

(iii) interagency collaboration; and

(iv) unified care and treatment planning at the individual child level.

(6) "Wraparound philosophy of care" means a planning process that is designed to address the needs of a child and the child's family and that:

(a) empowers the family to take the lead in making decisions affecting the planning for support systems and services;

(b) reflects the family's values, preferences, culture, strengths, and needs;

(c) emphasizes community-based natural and informal support systems;

(d) involves collaboration among members of a team that is developed with involvement of the family and that includes agencies, providers, and others who offer support to the child and family;

(e) provides services in the least restrictive and most accessible setting possible; and

(f) contains measurable outcomes that are regularly reviewed by the team and adjusted as necessary."

Section 30. Section 52-5-101, MCA, is amended to read:

"**52-5-101. Establishment of ~~state youth~~ correctional facilities -- prohibitions -- definition.** (1) The department of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate correctional facilities to ~~properly~~ provide custody, assessment, care, supervision, treatment, education, rehabilitation, and work and skill development ~~for~~ of youth in need of these services who are~~. The~~

~~youth must be~~ at least 10 years of age ~~or older~~ and ~~under~~ less than 18 years of age. ~~The facilities include but are not limited to the Pine Hills youth correctional facility in Miles City.~~

(2) A youth alleged or found to be a youth in need of intervention may not be placed in a ~~state youth~~ correctional facility ~~as defined in 41-5-103~~.

(3) When a correctional facility previously used as a secure residential facility for youth is repurposed by the department to provide for the custody, treatment, training, and rehabilitation of other correctional populations, serving the needs of youth populations must have priority if youth population increases sufficiently to justify the department reverting to the previous use of the facility."

Section 31. Section 52-5-108, MCA, is amended to read:

"**52-5-108. Medical examination before admission -- records required to accompany youth committed.** (1) Before a youth is admitted for any purpose or for any length of time to the Pine Hills ~~youth~~ correctional facility or another facility under an order of commitment to the department of corrections, the youth must be examined by a licensed physician assistant, by an advanced practice registered nurse, or by a licensed physician. A youth committed to the Pine Hills ~~youth~~ correctional facility or the department must be accompanied by the order of commitment, a medical examination report, an adequate social history, and any school records.

(2) The medical examination required under this section must be a current, complete physical examination of the youth."

Section 32. Section 52-5-109, MCA, is amended to read:

"**52-5-109. Transportation costs -- arrangement for transportation.** (1) Prior to adjudication:

(a) for a youth placed in a facility, other than a ~~state youth~~ correctional facility or a detention facility, the judicial district of the youth court to which the youth has been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs incurred while the youth is in the facility. The district shall pay these costs from its annual allocation provided for in 41-5-130.

(b) for a youth detained in a detention facility, the county of the youth court to which the youth has been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs

while the youth is in the facility.

(2) After adjudication:

(a) for a youth placed in a nonsecure facility within or outside the state, the judicial district of the youth court in which the youth was adjudicated shall pay the costs for transporting the youth to and from the facility from its annual allocation established under 41-5-130;

(b) for a youth committed to the department of corrections for placement in an in-state ~~youth~~ correctional facility or returned to the department for violation of the terms and conditions of the youth's conditional release agreement, the county of the youth court in which the youth was adjudicated shall pay the cost for transporting the youth to the facility. The department shall pay the cost for transporting the youth after the youth is released from the facility or provide other arrangements for transporting the youth.

(c) for a youth placed in an out-of-state correctional facility pursuant to 41-5-355, the department of corrections shall pay the cost for transporting the youth to the facility and the cost for transporting the youth after the youth is released from the facility.

(3) The youth court probation office shall arrange for all transportation to and from an out-of-home placement except when the department of corrections is responsible for transportation costs as provided for in subsections (2)(b) and (2)(c)."

Section 33. Section 52-5-110, MCA, is amended to read:

"**52-5-110. Transfer of child to other facility or institution.** The department of corrections, upon recommendation of the superintendent of a facility, may transfer a child resident in one of its ~~youth~~ correctional facilities to any other facility or institution under the jurisdiction and control of the department or under contract to the department."

Section 34. Section 52-5-111, MCA, is amended to read:

"**52-5-111. Commutation of sentence to state prison facility and transfer of prisoner to ~~youth~~ correctional facility.** (1) Upon the application of a person who has not attained 18 years of age who has been sentenced to a state prison facility or upon the application of the youth's parents or guardian, the governor may, after consulting with the department of corrections and with the approval of the board of pardons and parole,

commute the sentence by committing the person ~~who~~ to the department of corrections for placement in a correctional facility if the person may benefit from programs offered at a ~~youth~~ correctional facility. ~~to the department of corrections~~ Except as provided in subsection (2), the commutation continues in effect until the youth is 18 years of age or until sooner placed or discharged.

(2) If the youth's behavior after being committed to the department of corrections as provided in subsection (1) indicates that the youth is not a proper person to reside at one of the ~~youth~~ correctional facilities, the governor, after consulting with the department of corrections and with the approval of the board of pardons and parole, may revoke the commutation and return the youth to a state prison facility to serve out the youth's unexpired term, and the time spent by the youth at one of the ~~youth~~ correctional facilities or while a refugee from one of the ~~youth~~ correctional facilities ~~is not considered as a part of~~ may not be credited against the youth's original sentence.

(3) ~~Upon~~ Independent of the commutation of sentence procedures provided for in subsections (1) and (2), on recommendation of the warden and with the approval of the department of corrections, a person under 18 years of age who has been sentenced to a state prison facility and who may benefit from programs offered at a ~~youth~~ correctional facility may be transferred to any ~~youth~~ correctional facility under the jurisdiction and control of the department of corrections.

(4) If the youth's behavior after transfer to a ~~youth~~ correctional facility indicates that the youth might be released on parole or that the youth's sentence might be commuted and the youth be discharged from custody, the superintendent of the facility, with the approval of the department of corrections, may make an appropriate recommendation to the board of pardons and parole and the governor, who may in their discretion parole the person or commute the youth's sentence.

(5) If the youth's behavior after transfer to a ~~youth~~ correctional facility indicates that the youth is not a proper person to reside in the facility, upon recommendation of the superintendent and with the approval of the department of corrections, the youth must be returned to a state prison facility to serve out the unexpired term."

Section 35. Section 52-5-112, MCA, is amended to read:

"**52-5-112. University aid to residents of schools.** The department of corrections may, on the recommendation of the superintendent, authorize a resident of a ~~state youth~~ correctional facility who has

completed high school and who is otherwise eligible to receive up to $800 per year toward the resident's expenses incurred in attending a unit of the Montana university system. The money may be used for transportation, clothing, books, board, and room and must be paid in the same manner as other expenses of the school. The board of regents of higher education may waive fees and tuition for these residents pursuant to 20-25-421. No more than eight residents of each ~~state youth~~ correctional facility may receive these benefits each year. The department shall notify the board of regents before August 1 of each year of the residents that it has designated to receive the benefits for the next school year."

Section 36. Section 52-5-113, MCA, is amended to read:

"**52-5-113. Publication of information to facilitate return of youth leaving a ~~state youth~~ correctional facility or program without permission.** The department may publish the name and picture of and the offense and other information relating to a youth who has left a ~~state youth~~ correctional facility or program operated by the department or who is committed to the department and who presents a threat to public safety if the publication is determined by the department to be necessary to facilitate the youth's return and to protect the public."

Section 37. Section 52-5-114, MCA, is amended to read:

"**52-5-114. Penalty for aiding resident in leaving or not returning to ~~youth~~ correctional facility.** (1) A person is guilty of an offense if the person purposely or knowingly:

(a) permits or assists a resident of a ~~youth~~ correctional facility to leave a facility without permission;

(b) permits or assists a resident's failure to return to a ~~youth~~ correctional facility from which the resident had permission to leave;

(c) furnishes or attempts to furnish to a resident a tool, weapon, or other article with the intent of aiding the resident to leave without permission or to not return; or

(d) harbors or conceals a resident who has left without permission.

(2) Upon conviction of a violation of subsection (1), a person shall be punished by imprisonment for a term of not less than 6 months or more than 2 years or by a fine not exceeding $1,000, or both."

Section 38. Section 52-5-120, MCA, is amended to read:

"**52-5-120. Youth industries programs.** The department of corrections may:

(1) establish youth industries programs in state ~~youth~~ correctional facilities that:

(a) assist in the training and rehabilitation of residents who are youth at ~~state youth~~ correctional facilities; and

(b) provide the production or manufacture of products and the rendering of services that may be needed by:

(i) a department or agency of the state of Montana or a unit of local government;

(ii) an agency of the federal government; or

(iii) an office or agency of another state or a political subdivision of another state;

(2) contract with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(3) fix the purchase price for goods and services available under the industries program established in subsection (1)."

Section 39. Section 52-5-121, MCA, is amended to read:

"**52-5-121. Rulemaking authority.** The department of corrections may adopt rules necessary for administration of industries programs authorized in 52-5-120. Rules adopted by the department may include rules regarding:

(1) requirements for participation of youth in industries programs;

(2) the type of training and experience to be provided to youth under these programs;

(3) the type of goods and services to be sold under the industries programs;

(4) contracts with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(5) payment of wages to youth working in industries programs."

Section 40. Section 52-5-126, MCA, is amended to read:

"**52-5-126. Conditional release agreement.** (1) At least 30 days before a youth is released by the

department of corrections from a ~~state youth~~ correctional facility to the supervision, custody, and control of the youth court, the department, youth, and juvenile probation officer assigned to the youth shall develop a conditional release agreement for the youth.

(2) At least 14 days before the youth is released, the department, youth, and juvenile probation officer shall finalize and sign the conditional release agreement. The agreement must contain a statement advising the youth of the youth's rights under 41-5-1430 and the terms and conditions that may result in a revocation of the youth's conditional release.

(3) A conditional release agreement for a youth released from a ~~state youth~~ correctional facility for commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, must remain in effect until the youth court no longer has custody of the youth."

Section 41. Section 52-5-128, MCA, is amended to read:

"**52-5-128. Detention of youth who violates conditional release or escapes from facility or program.** (1) A juvenile probation officer may detain a youth who allegedly has violated the terms and conditions of the youth's conditional release agreement. A law enforcement officer of the state or a county or a city shall detain a youth who has allegedly violated the terms and conditions of the youth's conditional release agreement upon receipt of a warrant to detain the youth.

(2) The department of corrections may detain a youth who has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the department. A law enforcement officer of the state or a county or a city shall detain a youth upon notice in writing to the officer by the department that the youth has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the department."

Section 42. Section 53-1-104, MCA, is amended to read:

"**53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following institutions, correctional facilities, or other facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or disorder shall give written notification to the department of justice when the person is admitted or released by it:

(a) the Montana state hospital;

(b) a state prison;

(c) a Montana ~~youth~~ correctional facility housing youth; or

(d) a county or city detention facility.

(2) The notification must disclose:

(a) the name of the person;

(b) where the person is or will be located; and

(c) the type of fire the person was involved in."

Section 43. Section 53-1-105, MCA, is amended to read:

"**53-1-105. Disposition of contraband in correctional institution.** (1) Cash possessed in excess of the amount allowed by the policy of ~~an adult or youth~~ correctional institution or obtained in violation of a policy may be confiscated and deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund.

(2) The department of corrections shall adopt policies for the disposition of other contraband confiscated from inmates or residents in ~~adult or youth~~ correctional institutions. Receipts from the sale of contraband must be deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund."

Section 44. Section 53-1-107, MCA, is amended to read:

"**53-1-107. (Temporary) Inmate financial transactions and trust account system.** (1) An inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

(c) The department shall adopt rules to exempt the following inmates from participation in the mandatory inmate savings program under subsection (4)(a):

(i) inmates who are of advanced age;

(ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

(iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an advanced age upon their discharge date;

(iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an

advanced age at eligibility; and

(v) inmates who are not eligible for parole and are serving life sentences.

(5) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1). (Terminates June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

53-1-107. (Effective July 1, 2021) Inmate financial transactions and trust account system. (1) An inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

(c) The department shall adopt rules to exempt the following inmates from participation in the mandatory inmate savings program under subsection (4)(a):

(i) inmates who are of advanced age;

(ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

(iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an advanced age upon their discharge date;

(iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an advanced age at eligibility; and

(v) inmates who are not eligible for parole and are serving life sentences.

(5) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay

the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1)."

Section 45. Section 53-1-109, MCA, is amended to read:

"**53-1-109. Facility resident and prison inmate welfare account.** (1) There is an account in the state special revenue fund. The net proceeds from Pine Hills ~~youth~~ correctional facility resident and state prison inmate canteen purchases and resident or inmate telephone use, cash proceeds from the disposition of confiscated contraband, and any public money held for the needs of residents or inmates and their families and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107 may not be deposited in the account established in this subsection.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of corrections, which may allocate the money referred to in subsection (1) to the Pine Hills ~~youth~~ correctional facility and state prisons in proportion to the amount that each facility contributed to the fund. The superintendent of the Pine Hills ~~youth~~ correctional facility and the administrator of each state prison shall consult with the residents and inmates in the superintendent's or administrator's respective facility about the use of the money allocated to the Pine Hills ~~youth~~ correctional facility or the state prison and may use the money for the needs of that facility's residents or inmates and their families.

(3) For purposes of this section, "state prison" has the meaning provided in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4)."

Section 46. Section 53-1-201, MCA, is amended to read:

"**53-1-201. Purpose of department of corrections.** The department of corrections shall use at maximum efficiency the resources of state government in a coordinated effort to:

(1) develop and maintain comprehensive services and programs in the field of adult and youth corrections; and

(2) provide for the custody, assessment, care, supervision, treatment, education, rehabilitation, and

work and skill development of ~~youth alleged to be youth in need of intervention or~~ formerly adjudicated delinquent youth who are referred or committed to the department."

Section 47. Section 53-1-202, MCA, is amended to read:

"**53-1-202. Department of corrections.** (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following correctional facilities or programs:

(a) ~~the prisons listed~~a state prison as defined in 53-30-101;

(b) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:

(i) in prerelease centers;

(ii) under intensive supervision;

(iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

(iv) in other appropriate programs; and

(c) the Montana correctional enterprises prison industries training program authorized by 53-30-131.

(3) Youth correctional services consist of the following correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth and youth in need of intervention pursuant to Title 52, chapter 5:

(a) Pine Hills ~~youth~~ correctional facility or other ~~state youth~~ correctional facility as defined in 41-5-103; and

(b) any other facility or program under contract with the department that provides custody and services for delinquent youth.

~~(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature.~~

(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature."

Section 48. Section 53-1-203, MCA, is amended to read:

"**53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) for the siting, establishment, and expansion of prerelease centers;

(ii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iii) for the establishment and maintenance of residential methamphetamine treatment programs; and

(iv) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 46-18-201 or 46-18-202 and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system,

within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) encourage efforts within the department and at the local level that would develop housing options and resource materials related to housing for individuals who are released from the Montana state prison or community corrections programs;

(h) maintain data on the number of individuals who are discharged from the adult correction services listed in 53-1-202 into a homeless shelter or a homeless situation;

(i) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(j) collect and disseminate information relating to youth who are committed to the department for placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

(k) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(l) provide funding for youth who are committed to the department for placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

(m) administer ~~youth~~ correctional facilities as defined in 41-5-103; and

(n) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a

contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in ~~state youth~~ correctional facilities.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(7) The department shall ensure that risk and needs assessments drive the department's supervision and correctional practices, including integrating assessment results into supervision contact standards and case management. The department shall regularly validate its risk assessment tool."

Section 49. Section 53-1-207, MCA, is amended to read:

"**53-1-207. Authorization of inmate labor for designated construction projects -- exemptions.** (1)

The department of corrections is authorized to use inmate labor for the purpose of construction projects at ~~the Montana~~ a state prison that are authorized by the legislature.

(2) The department of administration shall provide for construction of the projects authorized by this section, which are to be built by the lowest responsible bidder, with contract specifications to allow the use of inmate labor. The percentage of inmate labor must be determined prior to the advertising for bid of the projects through negotiations among the department of corrections, the department of administration, representatives of construction industry employers, and representatives of the building trades."

Section 50. Section 53-30-101, MCA, is amended to read:

"**53-30-101. ~~Location and function of prisons -- definitions~~ State prison -- definition.** ~~(1) The correctional facility at Deer Lodge is the Montana state prison, and its primary function is to provide for the custody, treatment, training, and rehabilitation of adult male criminal offenders.~~

~~(2) The correctional facility located in Billings is the Montana women's prison, and its primary function is to provide for the custody, treatment, training, and rehabilitation of adult female criminal offenders.~~

~~(3)~~ As used in this title, unless the context indicates otherwise, ~~the following definitions apply~~ "state prison" means:

~~(a) "Montana state prison" means the correctional facility located at Deer Lodge.~~

~~(b) "Montana women's prison" or "women's prison" means the correctional facility located at Billings.~~

~~(c) "State prison" means:~~

~~(i) the Montana state prison;~~

~~(ii) the Montana women's prison;~~

(1) a state penal or correctional institution whose primary function is to provide for the custody, treatment, training, and rehabilitation of adult criminal offenders;

~~(iii)~~(2) a state penal or correctional facility portion of a Montana regional correctional facility;

~~(iv)~~(3) a detention center, a state penal facility, or a correctional facility in another jurisdiction detaining Montana inmates ~~from Montana~~ pursuant to 53-30-106;

~~(v)~~(4) a private correctional facility or penal facility licensed by the department of corrections or a private correctional facility or penal facility portion of a Montana regional correctional facility licensed by the

department of corrections; or

~~(vi)~~(5) a combination of the facilities listed in this ~~subsection (3)(c)~~ section."

Section 51. Section 53-30-102, MCA, is amended to read:

"**53-30-102. Qualifications of state prison warden ~~of state prison and warden of women's prison~~.** The warden of ~~the Montana~~ a state prison ~~and the warden of the women's prison~~ must be ~~persons~~ trained through education and experience in directing a custody, treatment, training, or rehabilitation~~, or custodial~~ program in a penal or correctional institution."

Section 52. Section 53-30-141, MCA, is amended to read:

"**53-30-141. Extension of limits of confinement.** (1) The department of corrections may extend the limits of confinement of the ~~Montana~~ state prison in Deer Lodge for purposes of housing outside the prison fence inmates who:

(a) are employed in ranch or agricultural industry programs; and

(b) have demonstrated sufficient reliability and trustworthiness.

(2) Housing units outside the confines of the prison fence may be created by renovation of existing buildings or by the erection of modular-type units and associated facilities on the prison ranch.

(3) For the purpose of expediting the acquisition and construction of housing units authorized in subsection (2) the department of administration may exempt the project from provisions of Montana law relating to the employment of architects, advertising, labor, and wages. The department of administration need not comply with any state bidding requirements that would preclude a sole source purchase."

Section 53. Section 53-30-702, MCA, is amended to read:

"**53-30-702. Definitions.** As used in this part, the following definitions apply:

(1) "Administrative segregation" means a nonpunitive housing status for inmates whose continued presence in the general population may pose a serious threat to life, property, self, staff, other inmates, or the facility's security or orderly operation.

(2) "Administrator" means the official, regardless of local title, who is ultimately responsible for the

operation and management of a division, facility, or program.

(3) "Department" means the department of corrections provided for in 2-15-2301.

(4) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, a person who has a record of such an impairment, or a person who is regarded as having such an impairment.

(5) "Disciplinary detention" means a form of separation from the general population in which an inmate who has committed a serious violation of conduct regulations is confined to an individual cell by a disciplinary committee or other authorized group for short periods of time.

(6) "Facility" means a state prison as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4) or a ~~youth~~ correctional facility pursuant to 52-5-101.

(7) "Mental disorder" means exhibiting impaired emotional, cognitive, or behavioral functioning that interferes seriously with an individual's ability to function adequately except with supportive treatment or services. The individual also must:

(a) currently have or have had within the past year a diagnosed mental disorder; and

(b) currently exhibit significant signs and symptoms of a mental disorder.

(8) "Postpartum" means the first 6 weeks after delivery.

(9) "Prehearing confinement" means a short-term, nonpunitive housing status that is used to safely and securely control high-risk or at-risk inmates.

(10) "Protective custody" means a form of separation from the general population for an inmate who requests or requires protection from other inmates for reasons of health or safety.

(11) "Qualified mental health professional" includes psychiatrists, psychologists, psychiatric social workers, licensed professional counselors, psychiatric nurses, or others who, by virtue of their education, credentials, and experience, are permitted by law to evaluate and care for the mental health needs of patients.

(12) "Restrictive housing" means a placement that requires an inmate to be confined to a cell for at least 22 hours a day for the safe and secure operation of the facility. The term includes administrative segregation, protective custody, and disciplinary detention.

(13) "Step-down program" means an individualized program that includes a system of review and establishes criteria to prepare an inmate for transition to the general population or the community and that

involves a coordinated, multidisciplinary team approach that includes mental health, case management, and security practitioners.

(14) "Temporary confinement" has the same meaning as "prehearing confinement" as defined in this section."

- END -

I hereby certify that the within bill,

SB 344, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____day

of_____, 2021.

_____

Speaker of the House

Signed this _____day

of_____, 2021.

SENATE BILL NO. 344

INTRODUCED BY K. BOGNER

AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO REPURPOSE CORRECTIONAL FACILITIES SERVING YOUTH AND ADULT OFFENDERS; REDEFINING TERMS RELATED TO STATE YOUTH CORRECTIONAL FACILITIES AND STATE PRISONS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO HOLD CERTAIN YOUTH AND ADULT OFFENDERS IN THE SAME FACILITY SUBJECT TO CERTAIN CONDITIONS; REVISING LAWS RELATED TO EXCESSIVE CAPACITY FOR CERTAIN CORRECTIONAL FACILITIES THAT HOUSE YOUTH AND THE DEPARTMENT'S DETERMINATION OF ALTERNATIVE PLACEMENTS; REQUIRING THE DEPARTMENT TO PRIORITIZE YOUTH NEEDS WHEN CONSIDERING THE USE OF A FACILITY PREVIOUSLY USED TO HOUSE YOUTH; ELIMINATING A PROHIBITION ON THE DEPARTMENT FOR ABANDONING, MOVING, OR DISCONTINUING A CORRECTIONAL FACILITY OR STATE INSTITUTION; AND AMENDING SECTIONS 19-20-101, 20-4-134, 20-4-502, 20-9-327, 41-5-103, 41-5-106, 41-5-122, 41-5-206, 41-5-208, 41-5-355, 41-5-1416, 41-5-1430, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2005, 45-5-214, 45-7-307, 45-8-318, 46-5-112, 46-23-102, 46-23-201, 50-5-101, 50-5-301, 52-2-302, 52-5-101, 52-5-108, 52-5-109, 52-5-110, 52-5-111, 52-5-112, 52-5-113, 52-5-114, 52-5-120, 52-5-121, 52-5-126, 52-5-128, 53-1-104, 53-1-105, 53-1-107, 53-1-109, 53-1-201, 53-1-202, 53-1-203, 53-1-207, 53-30-101, 53-30-102, 53-30-141, AND 53-30-702, MCA.

SENATE BILL NO. 344

INTRODUCED BY K. BOGNER

A BILL FOR AN ACT ENTITLED: “AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO REPURPOSE CORRECTIONAL FACILITIES SERVING YOUTH AND ADULT OFFENDERS; REDEFINING TERMS RELATED TO STATE YOUTH CORRECTIONAL FACILITIES AND STATE PRISONS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO HOLD CERTAIN YOUTH AND ADULT OFFENDERS IN THE SAME FACILITY SUBJECT TO CERTAIN CONDITIONS; REVISING LAWS RELATED TO EXCESSIVE CAPACITY FOR CERTAIN CORRECTIONAL FACILITIES THAT HOUSE YOUTH AND THE DEPARTMENT'S DETERMINATION OF ALTERNATIVE PLACEMENTS; REQUIRING THE DEPARTMENT TO PRIORITIZE YOUTH NEEDS WHEN CONSIDERING THE USE OF A FACILITY PREVIOUSLY USED TO HOUSE YOUTH; ELIMINATING A PROHIBITION ON THE DEPARTMENT FOR ABANDONING, MOVING, OR DISCONTINUING A CORRECTIONAL FACILITY OR STATE INSTITUTION; AND AMENDING SECTIONS 19-20-101, 20-4-134, 20-4-502, 20-9-327, 41-5-103, 41-5-106, 41-5-122, 41-5-206, 41-5-208, 41-5-355, 41-5-1416, 41-5-1430, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2005, 45-5-214, 45-7-307, 45-8-318, 46-5-112, 46-23-102, 46-23-201, 50-5-101, 50-5-301, 52-2-302, 52-5-101, 52-5-108, 52-5-109, 52-5-110, 52-5-111, 52-5-112, 52-5-113, 52-5-114, 52-5-120, 52-5-121, 52-5-126, 52-5-128, 53-1-104, 53-1-105, 53-1-107, 53-1-109, 53-1-201, 53-1-202, 53-1-203, 53-1-207, 53-30-101, 53-30-102, 53-30-141, AND 53-30-702, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-20-101, MCA, is amended to read:

"**19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings account, together with interest, minus any amount deducted for correction of errors and the

aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on behalf of the member.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that becomes a beneficiary pursuant to 19-20-1005.

(4) "Average final compensation" means a member's highest average earned compensation, determined pursuant to 19-20-805, on which all required contributions have been made.

(5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to this chapter by which a person authorized by law designates one or more beneficiaries.

(6) "Beneficiary designation record" means either the hard copy form or electronic record prescribed by the retirement system and used by a person authorized by law to designate one or more beneficiaries.

(7) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a retirement allowance.

(8) "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or refund of accumulated contributions payable if there is no eligible primary beneficiary.

(9) "Creditable service" is that service defined by 19-20-401.

(10) "Date of termination" or "termination date" means the last date on which a member performed service in a position reportable to the retirement system.

(11) "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries designated pursuant to 19-20-1006.

(12) (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted.

(b) Earned compensation does not include:

(i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

(iv) any noncash benefit provided by an employer to or on behalf of a member;

(v) termination pay unless included pursuant to 19-20-716;

(vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

(vii) payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

(viii) incentive or bonus payments paid to a member that are not part of a series of annual payments;

(ix) a professional stipend paid pursuant to 20-4-134; or

(x) any similar payment or reimbursement made to or on behalf of a member by an employer.

(c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(13) "Employer" means:

(a) the state of Montana;

(b) a public school district, as provided in 20-6-101 and 20-6-701;

(c) the office of public instruction;

(d) the board of public education;

(e) an education cooperative;

(f) the Montana school for the deaf and blind, as described in 20-8-101;

(g) the Montana youth challenge program, as defined in 10-1-101;

(h) a ~~state youth~~ correctional facility, as defined in 41-5-103;

(i) the Montana university system;

(j) a community college; or

(k) any other agency, political subdivision, or instrumentality of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.

(14) "Extra duty service" means service in an educational services capacity that is not compensated as part of the normally assigned duties and functions of a school district teacher, administrator, or other employee but is regularly assigned to one or more school district teachers, administrators, or other employees as part of the regular operation of the school district's curricular and extracurricular programs.

(15) "Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.

(16) "Individual" means a human being.

(17) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(18) "Joint annuitant" means the one person that a retired member who has elected an optional allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of the retired member.

(19) "Member" means a person who has an individual account in the annuity savings account. Unless otherwise specified, "member" refers to a tier one member or a tier two member.

(20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the lifetime of the retired member.

(21) "Normal retirement age" means an age no earlier than 60 years of age.

(22) "Part-time service" means service that is not full-time service. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(23) "Position reportable to the retirement system" means a position in which an individual performs duties that would entitle the person to active membership in the retirement system under the provisions of 19-

20-302.

(24) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or refund of accumulated contributions payable upon the death of the individual authorized by law to make the designation.

(25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(26) "Retired", "retired member", or "retiree" means a person who is considered in retired member status under the provisions of 19-20-810.

(27) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

(28) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

(29) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

(30) "Service" means the performance of duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(31) "Termination" or "terminate" means that the employment relationship between the member and the member's employer has been terminated as required in 19-20-810.

(32) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

(33) "Tier one member" means a person who became a member before July 1, 2013, and who has not withdrawn the member's account balance.

(34) "Tier two member" means a person who became a member on or after July 1, 2013, or who, after withdrawing the member's account balance, became a member again after July 1, 2013.

(35) "Vested" means that a member has been credited with at least 5 full years of membership service upon which contributions have been made and has a right to a future retirement benefit.

(36) "Written application" or "written election" means a written instrument, required by statute or the rules of the board, properly signed and filed with the board, that contains all the required information, including documentation that the board considers necessary."

Section 2. Section 20-4-134, MCA, is amended to read:

"**20-4-134. Professional stipends for teachers certified by national board for professional teaching standards.** (1) Pursuant to subsection (5), an annual stipend of up to $1,500 must be provided to each teacher who holds a current certificate from the national board for professional teaching standards if the teacher is:

(a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered by national board certification assessment;

(b) certified to teach in Montana under the provisions of 20-4-103; and

(c) a full-time employee of:

(i) a Montana public school district, as defined in 20-6-101;

(ii) an education cooperative, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; or

(iv) a ~~state youth~~ correctional facility, as defined in 41-5-103.

(2) An annual stipend of up to $2,500 must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an instructional assignment in a school identified as:

(a) a school in a high-poverty area eligible to participate in the community eligibility provision under Public Law 111-296; or

(b) an impacted school as defined in 20-4-502.

(3) A teacher becomes eligible for the stipend in subsection (1) in the school year beginning July 1 after the teacher obtains certification or recertification from the national board for professional teaching

standards.

(4) By March 1, the superintendent of public instruction shall distribute stipend payments to any entity listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

(5) The obligation for funding a portion of the professional stipends is an obligation of the state. This section may not be construed to require a school district to provide its matching portion of a stipend to a qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of the stipends.

(6) (a) For a stipend under subsection (1), the state shall pay $500 and another $1 for each $1 contributed by the teacher's school district, up to a maximum state contribution of $1,000.

(b) For a stipend under subsection (2), the state shall pay $1,000 and another $2 for each $1 contributed by the teacher's school district, up to a maximum state contribution of $2,000."

Section 3. Section 20-4-502, MCA, is amended to read:

"**20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Critical quality educator shortage area" means a specific licensure or endorsement area in an impacted school in which:

(a) in any of the 3 immediate preceding school fiscal years a position was:

(i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;

(ii) filled from a candidate pool of less than five qualified candidates; or

(iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period in excess of 30 days; or

(b) a vacancy for the current school year was advertised for a period of at least 30 days and the district received less than five applications from qualified candidates.

(2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

(3) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

(4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(5) "Impacted school" means:

(a) a special education cooperative;

(b) the Montana school for the deaf and blind, as described in 20-8-101;

(c) the Montana youth challenge program, as established in 10-1-1401;

(d) a ~~state youth~~ correctional facility, as defined in 41-5-103;

(e) a public school located on an Indian reservation; and

(f) a public school that, driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.

(6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (6)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (6)(b) of this section to provide services to students.

(b) For purposes of subsection (6)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) the Montana youth challenge program; and

(v) a ~~state youth~~ correctional facility, as defined in 41-5-103.

(7) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

Section 4. Section 20-9-327, MCA, is amended to read:

"**20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) ~~state youth~~ correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills ~~youth~~ correctional facility and the facility under contract with the department of corrections for female youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14. (Subsection (3)(c) terminates June 30, 2023--sec. 1, Ch. 171, L. 2019.)"

Section 5. Section 41-5-103, MCA, is amended to read:

"**41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Conditional release" means the release of a youth from a ~~state youth~~ correctional facility subject to the terms and conditions of the conditional release agreement provided for in 52-5-126.

(6) (a) "Correctional facility" means a public secure residential facility or a private~~, physically~~ secure residential facility under contract with the department and operated ~~solely for the purpose of housing adjudicated delinquent youth~~ to provide for the custody, treatment, training, and rehabilitation of:

(i) formally adjudicated delinquent youth;

(ii) convicted adult offenders or criminally convicted youth; or

(iii) a combination of the populations described in subsections (6)(a)(i) and (6)(a)(ii) under conditions set by the department in rule.

(b) The term does not include a state prison as defined in 53-30-101.

(7) "Cost containment pool" means an account from which funds are allocated by the office of court administrator under 41-5-132 to a judicial district that exceeds its annual allocation for juvenile out-of-home placements, programs, and services or to the department for costs incurred under 41-5-1504.

(8) "Cost containment review panel" means the panel established in 41-5-131.

(9) "Court", when used without further qualification, means the youth court of the district court.

(10) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

(11) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

(12) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense;

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation; or

(c) who has violated the terms and conditions of the youth's conditional release agreement.

(13) "Department" means the department of corrections provided for in 2-15-2301.

(14) (a) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b).

(b) Department records do not include information provided by the department to the department of public health and human services' management information system or information maintained by the youth court through the office of court administrator.

(15) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;

(b) contempt of court or violation of a valid court order; or

(c) violation of the terms and conditions of the youth's conditional release agreement.

(16) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(17) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days

to protect the youth when there is no alternative placement available.

(18) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

(19) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

(20) (a) "Formal youth court records" means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(21) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

(22) "Guardian" means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(23) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts of a day, whichever is less, in 1 school year.

(24) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(25) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and

supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(26) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a collocated juvenile detention facility that complies with 28 CFR, part 31.

(27) "Judge", when used without further qualification, means the judge of the youth court.

(28) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(29) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(30) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and

(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(31) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(32) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

(33) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

(34) "Probable cause hearing" means the hearing provided for in 41-5-332.

(35) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

(36) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

(37) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

(38) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional release agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(39) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(40) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(41) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(42) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

~~(43) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the correctional facility under contract with the department for female youth.~~

~~(44)~~(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

~~(45)~~(44) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection ~~(45)(a)~~ (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

~~(46)~~(45) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(47)~~(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

~~(48)~~(47) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

~~(49)~~(48) "Youth care facility" has the meaning provided in 52-2-602.

~~(50)~~(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth alleged to have violated the terms and conditions of the youth's conditional release agreement and includes the youth court judge, juvenile probation officers, and assessment officers.

~~(51)~~(50) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a collocated secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional release agreement, or violation of a valid court order.

~~(52)~~(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention."

Section 6. Section 41-5-106, MCA, is amended to read:

"**41-5-106. Order of adjudication -- noncriminal.** ~~No~~ A placement of any youth in any ~~state youth~~ correctional facility under this chapter ~~shall~~ may not be deemed commitment to a penal institution. ~~No~~ An adjudication ~~upon~~ on the status of any youth in the jurisdiction of the court ~~shall~~ may not operate to impose any of the civil disability imposed on a person by reason of conviction of a criminal offense~~, nor shall such~~ An adjudication may not be deemed a criminal conviction, ~~nor shall any~~ and a youth may not be charged with or convicted of any crime in any court except as provided in this chapter. Neither the disposition of a youth under this chapter nor evidence given in youth court proceedings under this chapter ~~shall be~~ is admissible in evidence except as otherwise provided in this chapter."

Section 7. Section 41-5-122, MCA, is amended to read:

"**41-5-122. Duties of youth placement committee.** A youth placement committee shall:

(1) review all information relevant to the placement of a youth;

(2) consider available resources appropriate to meet the needs of the youth;

(3) consider the treatment recommendations of any professional person who has evaluated the youth;

(4) consider options for the financial support of the youth;

(5) recommend in writing to the youth court judge or the department an appropriate placement for the

youth, considering the age and treatment needs of the youth and the relative costs of care in facilities considered appropriate for placement. A committee shall consider placement in a licensed facility, at a ~~state youth~~ correctional facility, or with a parent, other family member, or guardian.

(6) review temporary and emergency placements as required under 41-5-124; and

(7) conduct placement reviews at least every 6 months and at other times as requested by the youth court."

Section 8. Section 41-5-206, MCA, is amended to read:

"**41-5-206. Filing in district court prior to formal proceedings in youth court.** (1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) sexual intercourse without consent as defined in 45-5-503;

(ii) deliberate homicide as defined in 45-5-102;

(iii) mitigated deliberate homicide as defined in 45-5-103;

(iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

(v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) negligent homicide as defined in 45-5-104;

(ii) arson as defined in 45-6-103;

(iii) aggravated assault as defined in 45-5-202;

(iv) sexual assault as provided in 45-5-502(3);

(v) assault with a weapon as defined in 45-5-213;

(vi) robbery as defined in 45-5-401;

(vii) burglary or aggravated burglary as defined in 45-6-204;

(viii) aggravated kidnapping as defined in 45-5-303;

(ix) possession of explosives as defined in 45-8-335;

(x) criminal distribution of dangerous drugs as defined in 45-9-101;

(xi) criminal possession of dangerous drugs as defined in 45-9-102(3);

(xii) criminal possession with intent to distribute as defined in 45-9-103(1);

(xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;

(xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;

(xv) escape as defined in 45-7-306;

(xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv).

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will serve the interests of community protection;

(b) the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as

provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

(6) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate ~~juvenile or adult~~ correctional facility. The department shall confine the youth in an institution that it considers proper, including a ~~state youth~~ correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(7) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses."

Section 9. Section 41-5-208, MCA, is amended to read:

"**41-5-208. Transfer of supervisory responsibility to district court after juvenile disposition -- nonextended jurisdiction and nontransferred cases.** (1) After adjudication by the court of a case that was not transferred to district court under 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile prosecution under part 16 of this chapter, the court may, on the youth's motion or the motion of the county attorney, transfer jurisdiction to the district court and order the transfer of supervisory responsibility from

juvenile probation services to adult probation services. A transfer under this section may be made to ensure continued compliance with the court's disposition under 41-5-1512 or 41-5-1513 and may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age.

(2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel, and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

(a) written notice of the motion to transfer;

(b) an opportunity to be heard in person and to present witnesses and evidence;

(c) a written statement by the court of the evidence relied on and reasons for the transfer;

(d) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) the right to counsel.

(3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing supervisory responsibility to the district court is appropriate, the court shall order the transfer.

(4) If a youth whose case has been transferred to district court under this section violates a disposition previously imposed under 41-5-1512 or 41-5-1513, the district court may, after hearing, impose conditions as provided under 46-18-201 through 46-18-203 but may not place a youth in a state adult correctional facility unless the youth was adjudicated for a felony offense.

(5) If, at the time of transfer, the youth is incarcerated in a ~~state youth~~ correctional facility, the district court may order that the youth, after reaching 18 years of age:

(a) be incarcerated in a state adult correctional facility if the youth was adjudicated for a felony offense, boot camp, or prerelease center; or

(b) be supervised by the department.

(6) The district court's jurisdiction over a case transferred under this section terminates when the youth reaches 25 years of age."

Section 10. Section 41-5-355, MCA, is amended to read:

"**41-5-355. ~~Excessive juvenile population -- confinement~~Confinement of juveniles ~~in alternate placements.~~** (1) The department shall determine the capacity ~~for state youth~~ of correctional facilities. ~~The department shall notify all district courts, sheriffs, and youth courts of the capacity for each state youth correctional facility by sending a report to each annually.~~

~~(2) If the population of a state youth correctional facility exceeds the capacity established by the department, the director of the department may declare that the capacity has been exceeded and temporarily stop admissions to the facility. The director shall notify each district court, sheriff, and youth court that delinquent or criminally convicted youth will not be accepted by the department for admission into the facility until the population is reduced to less than the capacity determined by the department in subsection (1).~~

~~(3)~~(2) ~~If the director of the~~ The department ~~declares that the capacity has been exceeded, the department shall~~ may place delinquent youth committed to a ~~state youth~~ correctional facility or criminally convicted youth ~~in alternate placements~~ based on the needs of the ~~delinquent youth or criminally convicted~~ youth. ~~If a youth is denied placement in a state youth correctional facility under this section, the department shall inform and seek approval of the district court of the intended alternative placement prior to placing the youth.~~

~~(4)~~(3) The department may enter into contracts with the federal government, other states, local governments, public or private corporations, and other entities that have suitable facilities for confining delinquent youth or criminally convicted youth committed to the department~~, either because a state youth correctional facility has exceeded its capacity or because the department has no youth correctional facility that is adequate for certain delinquent youth or criminally convicted youth~~."

Section 11. Section 41-5-1416, MCA, is amended to read:

"**41-5-1416. Victims and witnesses of juvenile felony offenses -- consultation -- notification of proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided under Title 46, chapter 24, to a victim or witness of a crime are also provided to the victim or witness of a juvenile felony offense.

(2) In a proceeding filed under this part, the county attorney or a designee shall consult with the victim

of a juvenile felony offense regarding the disposition of the case, including:

(a) a dismissal of the petition filed under 41-5-1402;

(b) a reduction of the charge to misdemeanor;

(c) the release of the youth from detention or shelter care pending the adjudicatory hearing or pending a probable cause hearing. The consultation required by this subsection (2)(c) must take place prior to the youth's release, whether or not the county attorney or designee has received information from the victim under subsection (3)(a), unless the county attorney or designee is unable to contact the victim after making a good faith effort to contact the victim.

(d) the disposition of the youth.

(3) (a) Whenever possible, a person described in subsection (3)(b) who provides the appropriate agency with a current address and telephone number must receive prompt advance notification of youth court case proceedings, including:

(i) the filing of a petition under 41-5-1402;

(ii) the release of the youth from detention or shelter care; and

(iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent decree under 41-5-1501, the setting of a date for the adjudicatory hearing under 41-5-1502, the setting of a date for the dispositional hearing under 41-5-1511, the disposition made, and the release of the youth from a ~~youth~~ correctional facility.

(b) A person entitled to notification under this subsection (3) must be a victim, as defined in 41-5-103, of a juvenile felony offense.

(c) The county attorney or a designee who provides the consultation regarding the disposition of a case required in subsection (2) shall give the victim the opportunity to provide the victim's current telephone number and address and shall provide the victim with the name and address of the agency or agencies responsible for operation of youth detention, correctional, or shelter care facilities that are responsible for the custody of the youth.

(d) The appropriate official or agency shall provide the notification required by this subsection (3) in the same manner as required for offenses committed by adults.

(4) For purposes of this section, "juvenile felony offense" means an offense committed by a juvenile

that, if committed by an adult, would constitute a felony offense. The term includes any offense for which a juvenile may be declared a serious juvenile offender, as defined in 41-5-103."

Section 12. Section 41-5-1430, MCA, is amended to read:

"**41-5-1430. Conditional release revocation hearing.** (1) (a) If a county attorney files a petition to revoke a youth's conditional release, the court shall hold a revocation hearing without a jury within 10 working days after the petition is filed, except as provided in subsection (1)(b).

(b) (i) If a youth alleged to have violated the terms and conditions of the youth's conditional release agreement has been taken into custody and placed in detention, the court shall conduct a probable cause hearing in accordance with 41-5-332 through 41-5-334.

(ii) If the court determines that there is probable cause to believe that the youth has violated the terms and conditions of the youth's conditional release agreement and the county attorney determines that revocation is warranted, the county attorney shall file a petition to revoke within 7 working days. The court shall hold a revocation hearing without a jury within 10 working days after the petition has been filed.

(iii) If the county attorney does not file a petition to revoke, the youth must be released unless good cause is shown to further detain the youth.

(2) In regard to the conditional release revocation hearing, the youth is entitled to:

(a) receive written notice of the alleged violation of the terms and conditions of the youth's conditional release;

(b) receive evidence of the alleged violation;

(c) an opportunity to be heard in person or by interactive video transmission and to present witnesses and evidence;

(d) cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) be represented by counsel.

(3) After the revocation hearing, if the court finds by a preponderance of the evidence presented that the youth has violated the terms and conditions of the youth's conditional release, the court may revoke the youth's conditional release and return the youth to a ~~state youth~~ correctional facility or make any other judgment or disposition that could have been made under the original judgment."

Section 13. Section 41-5-1503, MCA, is amended to read:

"**41-5-1503. Medical or psychological evaluation of youth -- urinalysis.** (1) The youth court may order a youth to receive a medical or psychological evaluation at any time prior to final disposition if the youth waives the youth's constitutional rights in the manner provided for in 41-5-331. Except as provided in subsection (2), the youth court shall pay for the cost of the evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(2) The youth court shall determine the financial ability of the youth's parents or guardians to pay the cost of an evaluation ordered by the court under subsection (1). If they are financially able, the court shall order the youth's parents or guardians to pay all or part of the cost of the evaluation.

(3) Subject to 41-5-1512(1)(o)(i), the youth court may not order an evaluation or placement of a youth at a ~~state youth~~ correctional facility unless the youth is found to be a delinquent youth or is alleged to have committed an offense that is listed in 41-5-206.

(4) An evaluation of a youth may not be performed at the Montana state hospital.

(5) In a proceeding alleging a youth to be a delinquent youth, upon a finding of an offense related to use of alcohol or illegal drugs, the court may order the youth to undergo urinalysis for the purpose of determining whether the youth is using alcoholic beverages or illegal drugs."

Section 14. Section 41-5-1504, MCA, is amended to read:

"**41-5-1504. Finding of suffering from mental disorder and meeting other criteria -- rights -- limitation on placement.** (1) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 53-21-119.

(2) A youth who, prior to placement or sentencing, is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) may not be committed or sentenced to a ~~state youth~~ correctional facility.

(3) (a) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1), after placement in or sentencing to a ~~state youth~~ correctional facility must be

moved to a more appropriate placement in response to the youth's mental health needs and consistent with the disposition alternatives available in 53-21-127.

(b) (i) If before removing the youth from the facility the department determines that it will request funds for the youth's placement from the cost containment pool as provided for in 41-5-132, the department may ask the cost containment review panel to make recommendations to the department about the most appropriate placement for the youth. The department shall provide the cost containment review panel with sufficient information about the youth to allow the panel to make its recommendations, and the department shall consider the panel's recommendations before making its placement decision.

(ii) The department may request at any time from the cost containment review panel recommendations regarding the youth's placement.

(iii) The cost containment review panel shall establish protocols for making recommendations to the department under this section."

Section 15. Section 41-5-1512, MCA, is amended to read:

"**41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee if a committee has been established as provided for in 41-5-121.

(c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based on the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention,

supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a ~~youth~~ correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection (1)(o)(iii), the court shall pay the cost of the placement for evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days; or

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator."

Section 16. Section 41-5-1513, MCA, is amended to read:

"**41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

(a) any one or more of the dispositions provided in 41-5-1512;

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for

placement in a ~~state youth~~ correctional facility or other appropriate program as determined by the department and recommend to the department that the youth not be released until the youth reaches 18 years of age. ~~The provisions of 41-5-355relating to alternative placements apply to placements under this subsection (1)(b).~~ The court may not place a youth adjudicated to be a delinquent youth in a ~~state youth~~ correctional facility for an act that would be a misdemeanor if committed by an adult unless:

(i) the youth committed four or more misdemeanors in the prior 12 months;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a ~~state youth~~ correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a ~~state youth~~ correctional facility.

(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, the youth is exempt from the duty to register as a sexual offender pursuant to Title 46, chapter 23, part 5, unless the court finds that:

(i) the youth has previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; or

(ii) registration is necessary for protection of the public and that registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed in a ~~state youth~~ correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a ~~youth~~ correctional facility. Once a youth is committed to the department for placement in a ~~state youth~~ correctional facility, the department is responsible for determining an appropriate date of release or an

alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509;

(c) require completion of sexual offender treatment; and

(d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the supervision of the offender is transferred to the department.

(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or conditional release, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent.

(4) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth, except as provided in 52-5-109.

(5) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-

130 without approval from the office of court administrator.

(6) The duration of registration for a youth who is required to register as a sexual or violent offender must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration."

Section 17. Section 41-5-1522, MCA, is amended to read:

"**41-5-1522. Commitment to department -- restrictions on placement.** When a youth is committed to the department, the department shall determine the appropriate placement and rehabilitation program for the youth while the youth is in a correctional facility or other program operated by or under contract with the department after considering the recommendations made by the youth placement committee if a committee has been established as provided for in 41-5-121. Placement is subject to the following limitations:

(1) A youth may not be held in a ~~state youth~~ correctional facility for a period of time in excess of the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court.

(2) A youth may not be placed in or transferred to a ~~state adult~~ correctional facility ~~or other facility used for the execution of sentences of adults convicted of crimes~~ that does not provide sight and sound separation from adult offenders as required in 28 CFR 115.14.

(3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent adjustment in a ~~state youth~~ correctional facility."

Section 18. Section 41-5-1523, MCA, is amended to read:

"**41-5-1523. Commitment to department or youth court -- supervision.** (1) A youth placed in a ~~state youth~~ correctional facility or other facility or program operated by or under contract with the department is under the control of the department until the youth is discharged, transferred, or placed on conditional release by the department. Before a youth is placed on conditional release, a conditional release agreement must be developed and signed as provided in 52-5-126.

(2) A youth who is placed on conditional release must be supervised by a juvenile probation officer of

the youth court.

(3) A youth placed in any private, out-of-home facility by the youth court must be supervised by a juvenile probation officer of the youth court.

(4) Responsibilities of the juvenile probation officer relating to placement of the youth include but are not limited to:

(a) if a youth placement committee has been established as provided for in 41-5-121, submitting information and documentation necessary for the committee that is making the placement recommendation to determine an appropriate placement for the youth;

(b) securing approval for payment of special education costs from the youth's school district of residence or the office of public instruction, as required in Title 20, chapter 7, part 4;

(c) submitting an application to a facility in which the youth may be placed; and

(d) managing the youth's case while in a private, out-of-home facility and upon release until supervision is terminated by the youth court."

Section 19. Section 41-5-2002, MCA, is amended to read:

"**41-5-2002. Purpose.** The purposes of this part are to:

(1) provide an alternate method of funding juvenile out-of-home placements, programs, and services;

(2) increase the ability of youth courts to respond to juvenile delinquency through early intervention and expanded community alternatives;

(3) enhance the ability of youth courts to control costs;

(4) enhance community safety, hold youth accountable, and promote the competency development of youth;

(5) use local resources for the placement of troubled youth, when appropriate and available;

(6) reduce placements in out-of-state residential facilities and programs; and

(7) use ~~state youth~~ correctional facilities when appropriate."

Section 20. Section 41-5-2005, MCA, is amended to read:

"**41-5-2005. Youth placement committee recommendation to youth court judge -- acceptance or**

rejection. (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or 41-5-1513, a youth placement committee may be established as provided for in 41-5-121. Except as provided in subsection (1)(b), the committee, if established, shall submit in writing to the youth court judge its primary and alternative recommendations for placement of the youth.

(b) An alternative recommendation is unnecessary if the committee's recommendation is placement in a ~~youth~~ correctional facility.

(2) The committee shall first consider placement of the youth in a community-based facility or program and shall give priority to placement of the youth in a facility or program located in the state of Montana.

(3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services are not appropriate.

(4) The primary and alternative recommendations of the youth placement committee must be for similar facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the recommended placements are dissimilar.

(5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make an appropriate placement for the youth.

(6) The youth court may not order a placement or change of placement that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator.

(7) The youth court shall evaluate the cost of the placement or change of placement and ensure that the placement or change of placement will not overspend the annual allocation provided by the office of court administrator under 41-5-130."

Section 21. Section 45-5-214, MCA, is amended to read:

"**45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if the person purposely causes one of the person's bodily fluids to make physical contact with:

(a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care

provider, as defined in 50-4-504, including a health care provider performing emergency services, while the health care provider is acting in the course and scope of the health care provider's profession and occupation:

(i) during or after an arrest for a criminal offense;

(ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or regional jail or detention facility, or a health care facility; or

(iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, ~~state youth~~ correctional facility as defined in 41-5-103, health care facility, or shelter care facility; or

(b) an emergency responder.

(2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed $1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

(3) The youth court has jurisdiction of any violation of this section by a minor.

(4) As used in this section, the following definitions apply:

(a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

(b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency care provider, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

Section 22. Section 45-7-307, MCA, is amended to read:

"**45-7-307. Transferring illegal articles -- unauthorized communication.** (1) (a) A person commits the offense of transferring illegal articles if the person knowingly or purposely transfers any illegal article or weapon to a person subject to official detention or is transferred any illegal article or weapon by a person subject to official detention.

(b) A person convicted of transferring illegal articles or a weapon shall be:

(i) imprisoned in a state prison for a term not to exceed 20 years, if the item transferred is a weapon;

(ii) imprisoned in a state prison for a term not to exceed 10 years, if the illegal article is a dangerous drug, as defined in 50-32-101; or

(iii) imprisoned in a state prison for a term not to exceed 13 months or be fined an amount not more than $1,500, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a state prison, as defined in 53-30-101~~(3)(c)~~, or be fined an amount not more than $100 or be imprisoned in the county jail for any term not to exceed 10 days, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a place other than a state prison.

(c) Subsection (1)(b)(iii) does not apply unless the offender knew or was given sufficient notice so that the offender reasonably should have known that the article conveyed was an illegal article.

(2) (a) A person commits the offense of unauthorized communication if the person knowingly or purposely communicates with a person subject to official detention without the consent of the person in charge of the official detention.

(b) A person convicted of the offense of unauthorized communication shall be fined an amount not to exceed $100 or imprisoned in the county jail for any term not to exceed 10 days, or both."

Section 23. Section 45-8-318, MCA, is amended to read:

"**45-8-318. Possession of deadly weapon by prisoner or youth in facility.** (1) A person commits the offense of possession of a deadly weapon by a prisoner if the person purposely or knowingly possesses or carries or has under the person's custody or control without lawful authority a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife, razor not including a safety razor, or other deadly weapon while the person is:

(a) a person committed to a state prison or incarcerated in a county jail, city jail, or regional jail and is:

(i) at a state prison, a state prison farm or ranch, or jail;

(ii) being conveyed to or from a place listed in this subsection (1)(a); or

(iii) under the custody of prison or jail officials, officers, or employees; or

(b) a person in a youth detention facility, secure detention facility, regional detention facility, short-term detention center, ~~state youth~~ correctional facility, or shelter care facility, as those terms are defined in 41-5-103, and is at the facility, being conveyed to or from the facility, or under the custody of the facility officials,

officers, or employees.

(2) A person convicted of the offense of possession of a deadly weapon by a prisoner shall be punished by imprisonment in the state prison for a term not less than 5 years or more than 15 years, by a fine of not more than $50,000, or by both fine and imprisonment.

(3) The youth court has jurisdiction of any violation of subsection (1)(b) unless the charge is filed in district court, in which case the district court has jurisdiction."

Section 24. Section 46-5-112, MCA, is amended to read:

"**46-5-112. Electronic data privacy -- warrant required -- exceptions.** (1) Except as provided in subsection (2), a government entity may not obtain the stored data of an electronic device without a search warrant issued by a court upon a finding of probable cause.

(2) A government entity may obtain the stored data of an electronic device without a search warrant:

(a) with the consent of the owner or authorized user of the electronic device;

(b) in accordance with judicially recognized exceptions to warrant requirements;

(c) if the owner has voluntarily and publicly disclosed the stored data;

(d) if the government entity, in good faith, believes that an emergency involving danger, death, or serious physical injury to a person requires immediate disclosure of communications relating to the emergency;

(e) in order to respond to the user's call for emergency services; or

(f) for any electronic devices found within the confines of ~~an adult or youth~~ a correctional facility.

(3) Nothing in 46-5-111 through 46-5-113 may be construed to limit a government entity's ability to use, maintain, or store information on its own electronic devices or to disseminate information stored on its own electronic devices.

(4) Sections 46-5-111 through 46-5-113 do not apply to motor carrier safety or hazardous materials programs implemented by the department of transportation for purposes of complying with federal motor carrier safety regulations."

Section 25. Section 46-23-102, MCA, is amended to read:

"**46-23-102. Cases of juveniles excluded.** The provisions of parts 1, 2, 3, and 10 of this chapter do

not apply to probation in the youth courts or to conditional release from ~~state youth~~ correctional facilities."

Section 26. Section 46-23-201, MCA, is amended to read:

"**46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

(b) sentenced to the state prison and confined in a prerelease center;

(c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a ~~youth~~ correctional facility as defined in 41-5-103;

(d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for any other offense before a hearing panel conducts another hearing or review."

Section 27. Section 50-5-101, MCA, is amended to read:

"**50-5-101. Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Accreditation association for ambulatory health care" means the organization nationally recognized by that name that surveys outpatient centers for surgical services upon their requests and grants accreditation status to the outpatient centers for surgical services that it finds meet its standards and requirements.

(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (5), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.

(7) "Assisted living facility" means a congregate residential setting that provides or coordinates

personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(12) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(15) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(16) "Construction" means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

(17) "Council on accreditation" means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.

(18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

(19) "Department" means the department of public health and human services provided for in 2-15-2201.

(20) "DNV healthcare, inc." means the company nationally recognized by that name that surveys hospitals upon their requests and grants accreditation status to a hospital that it finds meets its standards and requirements.

(21) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

(22) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(23) "Federal acts" means federal statutes for the construction of health care facilities.

(24) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(25) "Healthcare facilities accreditation program" means the program nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

(26) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals,

infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(27) "Home health agency" means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(28) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

(29) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.

(30) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(31) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority.

A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(32) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmary--A" provides outpatient and inpatient care;

(b) an "infirmary--B" provides outpatient care only.

(33) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(34) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(35) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(36) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(37) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,

residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the authority of the department of corrections.

(38) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(39) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(40) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(41) "Offer" means the representation by a health care facility that it can provide specific health services.

(42) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(43) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(44) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(45) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(46) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(47) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(48) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(49) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(51) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(52) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(53) "Residential psychiatric care" means active psychiatric treatment provided in a residential

treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(54) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(55) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(56) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(57) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

(i) patients with a cardiac condition;

(ii) patients with an orthopedic condition;

(iii) patients undergoing a surgical procedure; or

(iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (57), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term "specialty hospital" does not include:

(i) psychiatric hospitals;

(ii) rehabilitation hospitals;

(iii) children's hospitals;

(iv) long-term care hospitals; or

(v) critical access hospitals.

(58) "State health care facilities plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(59) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.

(60) "The joint commission" means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements."

Section 28. Section 50-5-301, MCA, is amended to read:

"**50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted an application for and is the holder of a certificate of need granted by the department, the person may not initiate any of the following:

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that exceeds $1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which an expenditure is made must be included in determining if the expenditure exceeds $1.5 million.

(b) a change in the bed capacity of a health care facility through an increase in the number of beds or a relocation of beds from one health care facility or site to another, unless:

(i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated during the 2 years prior to the date on which the letter of intent for the proposal is received;

(ii) a letter of intent is submitted to the department; and

(iii) the department determines that the proposal will not significantly increase the cost of care provided or exceed the bed need projected in the state health care facilities plan;

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of $150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or

more of an existing health care facility unless:

(i) the person submits the letter of intent required by 50-5-302(2); and

(ii) the department finds that the acquisition will not significantly increase the cost of care provided or increase bed capacity;

(e) the construction, development, or other establishment of a health care facility that is being replaced or that did not previously exist, by any person, including another type of health care facility;

(f) the expansion of the geographical service area of a home health agency;

(g) the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101;

(h) the provision by a hospital of services for home health care, long-term care, or inpatient chemical dependency treatment; or

(i) the construction, development, or other establishment of a facility for ambulatory surgical care through an outpatient center for surgical services in a county with a population of 20,000 or less according to the most recent federal census or estimate.

(2) For purposes of this part, the following definitions apply:

(a) "Health care facility" or "facility" means a nonfederal home health agency, a long-term care facility, or an inpatient chemical dependency facility. The term does not include:

(i) a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection (1)(h);

(ii) an office of a private physician, dentist, or other physical or mental health care professionals, including licensed addiction counselors; or

(iii) a rehabilitation facility or an outpatient center for surgical services.

(b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

(ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe

disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals not requiring institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the authority of the department of corrections.

(3) This section may not be construed to require a health care facility to obtain a certificate of need for a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a health care facility."

Section 29. Section 52-2-302, MCA, is amended to read:

"**52-2-302. Definitions.** The following definitions apply to this part:

(1) (a) "High-risk child with multiagency service needs" means a child under 18 years of age who is seriously emotionally disturbed, who is placed or who imminently may be placed in an out-of-home setting, and who has a need for collaboration from more than one state agency in order to address the child's needs.

(b) The term does not include a child incarcerated in a ~~state youth~~ correctional facility as defined in 41-5-103.

(2) "Least restrictive and most appropriate setting" means a setting in which a high-risk child with multiagency service needs is served:

(a) within the child's family or community; or

(b) outside the child's family or community where the needed services are not available within the child's family or community and where the setting is determined to be the most appropriate alternative setting based on:

(i) the safety of the child and others;

(ii) ethnic and cultural norms;

(iii) preservation of the family;

(iv) services needed by the child and the family;

(v) the geographic proximity to the child's family and community if proximity is important to the child's treatment.

(3) "Provider" means an agency of state or local government, a person, or a program authorized to

provide treatment or services to a high-risk child with multiagency service needs who is suffering from mental, behavioral, or emotional disorders.

(4) "Services" has the meaning as defined in 52-2-202.

(5) "System of care" means an integrated service support system that:

(a) emphasizes the strengths of the child and the child's family;

(b) is comprehensive and individualized; and

(c) provides for:

(i) culturally competent and developmentally appropriate services in the least restrictive and most appropriate setting;

(ii) full involvement of families and providers as partners;

(iii) interagency collaboration; and

(iv) unified care and treatment planning at the individual child level.

(6) "Wraparound philosophy of care" means a planning process that is designed to address the needs of a child and the child's family and that:

(a) empowers the family to take the lead in making decisions affecting the planning for support systems and services;

(b) reflects the family's values, preferences, culture, strengths, and needs;

(c) emphasizes community-based natural and informal support systems;

(d) involves collaboration among members of a team that is developed with involvement of the family and that includes agencies, providers, and others who offer support to the child and family;

(e) provides services in the least restrictive and most accessible setting possible; and

(f) contains measurable outcomes that are regularly reviewed by the team and adjusted as necessary."

Section 30. Section 52-5-101, MCA, is amended to read:

"**52-5-101. Establishment of ~~state youth~~ correctional facilities -- prohibitions -- definition.** (1) The department of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate correctional facilities to ~~properly~~ provide custody, assessment, care, supervision, treatment,

education, rehabilitation, and work and skill development ~~for~~ of youth in need of these services who are~~. The youth must be~~ at least 10 years of age ~~or older~~ and ~~under~~ less than 18 years of age. ~~The facilities include but are not limited to the Pine Hills youth correctional facility in Miles City.~~

(2) A youth alleged or found to be a youth in need of intervention may not be placed in a ~~state youth~~ correctional facility ~~as defined in 41-5-103~~.

(3) When a correctional facility previously used as a secure residential facility for youth is repurposed by the department to provide for the custody, treatment, training, and rehabilitation of other correctional populations, serving the needs of youth populations must have priority if youth population increases sufficiently to justify the department reverting to the previous use of the facility."

Section 31. Section 52-5-108, MCA, is amended to read:

"**52-5-108. Medical examination before admission -- records required to accompany youth committed.** (1) Before a youth is admitted for any purpose or for any length of time to the Pine Hills ~~youth~~ correctional facility or another facility under an order of commitment to the department of corrections, the youth must be examined by a licensed physician assistant, by an advanced practice registered nurse, or by a licensed physician. A youth committed to the Pine Hills ~~youth~~ correctional facility or the department must be accompanied by the order of commitment, a medical examination report, an adequate social history, and any school records.

(2) The medical examination required under this section must be a current, complete physical examination of the youth."

Section 32. Section 52-5-109, MCA, is amended to read:

"**52-5-109. Transportation costs -- arrangement for transportation.** (1) Prior to adjudication:

(a) for a youth placed in a facility, other than a ~~state youth~~ correctional facility or a detention facility, the judicial district of the youth court to which the youth has been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs incurred while the youth is in the facility. The district shall pay these costs from its annual allocation provided for in 41-5-130.

(b) for a youth detained in a detention facility, the county of the youth court to which the youth has

been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs while the youth is in the facility.

(2) After adjudication:

(a) for a youth placed in a nonsecure facility within or outside the state, the judicial district of the youth court in which the youth was adjudicated shall pay the costs for transporting the youth to and from the facility from its annual allocation established under 41-5-130;

(b) for a youth committed to the department of corrections for placement in an in-state ~~youth~~ correctional facility or returned to the department for violation of the terms and conditions of the youth's conditional release agreement, the county of the youth court in which the youth was adjudicated shall pay the cost for transporting the youth to the facility. The department shall pay the cost for transporting the youth after the youth is released from the facility or provide other arrangements for transporting the youth.

(c) for a youth placed in an out-of-state correctional facility pursuant to 41-5-355, the department of corrections shall pay the cost for transporting the youth to the facility and the cost for transporting the youth after the youth is released from the facility.

(3) The youth court probation office shall arrange for all transportation to and from an out-of-home placement except when the department of corrections is responsible for transportation costs as provided for in subsections (2)(b) and (2)(c)."

Section 33. Section 52-5-110, MCA, is amended to read:

"**52-5-110. Transfer of child to other facility or institution.** The department of corrections, upon recommendation of the superintendent of a facility, may transfer a child resident in one of its ~~youth~~ correctional facilities to any other facility or institution under the jurisdiction and control of the department or under contract to the department."

Section 34. Section 52-5-111, MCA, is amended to read:

"**52-5-111. Commutation of sentence to state prison facility and transfer of prisoner to ~~youth~~ correctional facility.** (1) Upon the application of a person who has not attained 18 years of age who has been sentenced to a state prison facility or upon the application of the youth's parents or guardian, the governor may,

after consulting with the department of corrections and with the approval of the board of pardons and parole, commute the sentence by committing the person ~~who~~ to the department of corrections for placement in a correctional facility if the person may benefit from programs offered at a ~~youth~~ correctional facility. ~~to the department of corrections~~ Except as provided in subsection (2), the commutation continues in effect until the youth is 18 years of age or until sooner placed or discharged.

(2) If the youth's behavior after being committed to the department of corrections as provided in subsection (1) indicates that the youth is not a proper person to reside at one of the ~~youth~~ correctional facilities, the governor, after consulting with the department of corrections and with the approval of the board of pardons and parole, may revoke the commutation and return the youth to a state prison facility to serve out the youth's unexpired term, and the time spent by the youth at one of the ~~youth~~ correctional facilities or while a refugee from one of the ~~youth~~ correctional facilities ~~is not considered as a part of~~ may not be credited against the youth's original sentence.

(3) ~~Upon~~ Independent of the commutation of sentence procedures provided for in subsections (1) and (2), on recommendation of the warden and with the approval of the department of corrections, a person under 18 years of age who has been sentenced to a state prison facility and who may benefit from programs offered at a ~~youth~~ correctional facility may be transferred to any ~~youth~~ correctional facility under the jurisdiction and control of the department of corrections.

(4) If the youth's behavior after transfer to a ~~youth~~ correctional facility indicates that the youth might be released on parole or that the youth's sentence might be commuted and the youth be discharged from custody, the superintendent of the facility, with the approval of the department of corrections, may make an appropriate recommendation to the board of pardons and parole and the governor, who may in their discretion parole the person or commute the youth's sentence.

(5) If the youth's behavior after transfer to a ~~youth~~ correctional facility indicates that the youth is not a proper person to reside in the facility, upon recommendation of the superintendent and with the approval of the department of corrections, the youth must be returned to a state prison facility to serve out the unexpired term."

Section 35. Section 52-5-112, MCA, is amended to read:

"**52-5-112. University aid to residents of schools.** The department of corrections may, on the

recommendation of the superintendent, authorize a resident of a ~~state youth~~ correctional facility who has completed high school and who is otherwise eligible to receive up to $800 per year toward the resident's expenses incurred in attending a unit of the Montana university system. The money may be used for transportation, clothing, books, board, and room and must be paid in the same manner as other expenses of the school. The board of regents of higher education may waive fees and tuition for these residents pursuant to 20-25-421. No more than eight residents of each ~~state youth~~ correctional facility may receive these benefits each year. The department shall notify the board of regents before August 1 of each year of the residents that it has designated to receive the benefits for the next school year."

Section 36. Section 52-5-113, MCA, is amended to read:

"**52-5-113. Publication of information to facilitate return of youth leaving a ~~state youth~~ correctional facility or program without permission.** The department may publish the name and picture of and the offense and other information relating to a youth who has left a ~~state youth~~ correctional facility or program operated by the department or who is committed to the department and who presents a threat to public safety if the publication is determined by the department to be necessary to facilitate the youth's return and to protect the public."

Section 37. Section 52-5-114, MCA, is amended to read:

"**52-5-114. Penalty for aiding resident in leaving or not returning to ~~youth~~ correctional facility.** (1) A person is guilty of an offense if the person purposely or knowingly:

(a) permits or assists a resident of a ~~youth~~ correctional facility to leave a facility without permission;

(b) permits or assists a resident's failure to return to a ~~youth~~ correctional facility from which the resident had permission to leave;

(c) furnishes or attempts to furnish to a resident a tool, weapon, or other article with the intent of aiding the resident to leave without permission or to not return; or

(d) harbors or conceals a resident who has left without permission.

(2) Upon conviction of a violation of subsection (1), a person shall be punished by imprisonment for a term of not less than 6 months or more than 2 years or by a fine not exceeding $1,000, or both."

Section 38. Section 52-5-120, MCA, is amended to read:

"**52-5-120. Youth industries programs.** The department of corrections may:

(1) establish youth industries programs in state ~~youth~~ correctional facilities that:

(a) assist in the training and rehabilitation of residents who are youth at ~~state youth~~ correctional facilities; and

(b) provide the production or manufacture of products and the rendering of services that may be needed by:

(i) a department or agency of the state of Montana or a unit of local government;

(ii) an agency of the federal government; or

(iii) an office or agency of another state or a political subdivision of another state;

(2) contract with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(3) fix the purchase price for goods and services available under the industries program established in subsection (1)."

Section 39. Section 52-5-121, MCA, is amended to read:

"**52-5-121. Rulemaking authority.** The department of corrections may adopt rules necessary for administration of industries programs authorized in 52-5-120. Rules adopted by the department may include rules regarding:

(1) requirements for participation of youth in industries programs;

(2) the type of training and experience to be provided to youth under these programs;

(3) the type of goods and services to be sold under the industries programs;

(4) contracts with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(5) payment of wages to youth working in industries programs."

Section 40. Section 52-5-126, MCA, is amended to read:

"**52-5-126. Conditional release agreement.** (1) At least 30 days before a youth is released by the department of corrections from a ~~state youth~~ correctional facility to the supervision, custody, and control of the youth court, the department, youth, and juvenile probation officer assigned to the youth shall develop a conditional release agreement for the youth.

(2) At least 14 days before the youth is released, the department, youth, and juvenile probation officer shall finalize and sign the conditional release agreement. The agreement must contain a statement advising the youth of the youth's rights under 41-5-1430 and the terms and conditions that may result in a revocation of the youth's conditional release.

(3) A conditional release agreement for a youth released from a ~~state youth~~ correctional facility for commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, must remain in effect until the youth court no longer has custody of the youth."

Section 41. Section 52-5-128, MCA, is amended to read:

"**52-5-128. Detention of youth who violates conditional release or escapes from facility or program.** (1) A juvenile probation officer may detain a youth who allegedly has violated the terms and conditions of the youth's conditional release agreement. A law enforcement officer of the state or a county or a city shall detain a youth who has allegedly violated the terms and conditions of the youth's conditional release agreement upon receipt of a warrant to detain the youth.

(2) The department of corrections may detain a youth who has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the department. A law enforcement officer of the state or a county or a city shall detain a youth upon notice in writing to the officer by the department that the youth has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the department."

Section 42. Section 53-1-104, MCA, is amended to read:

"**53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following institutions, correctional facilities, or other facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or disorder shall give written notification to

the department of justice when the person is admitted or released by it:

(a) the Montana state hospital;

(b) a state prison;

(c) a Montana ~~youth~~ correctional facility housing youth; or

(d) a county or city detention facility.

(2) The notification must disclose:

(a) the name of the person;

(b) where the person is or will be located; and

(c) the type of fire the person was involved in."

Section 43. Section 53-1-105, MCA, is amended to read:

"**53-1-105. Disposition of contraband in correctional institution.** (1) Cash possessed in excess of the amount allowed by the policy of ~~an adult or youth~~ correctional institution or obtained in violation of a policy may be confiscated and deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund.

(2) The department of corrections shall adopt policies for the disposition of other contraband confiscated from inmates or residents in ~~adult or youth~~ correctional institutions. Receipts from the sale of contraband must be deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund."

Section 44. Section 53-1-107, MCA, is amended to read:

"**53-1-107. (Temporary) Inmate financial transactions and trust account system.** (1) An inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

(c) The department shall adopt rules to exempt the following inmates from participation in the mandatory inmate savings program under subsection (4)(a):

(i) inmates who are of advanced age;

(ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

(iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an advanced age upon their discharge date;

(iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an advanced age at eligibility; and

(v) inmates who are not eligible for parole and are serving life sentences.

(5) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1).

(Terminates June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

53-1-107. (Effective July 1, 2021) Inmate financial transactions and trust account system. (1) An inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following

order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

(c) The department shall adopt rules to exempt the following inmates from participation in the mandatory inmate savings program under subsection (4)(a):

(i) inmates who are of advanced age;

(ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

(iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an advanced age upon their discharge date;

(iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an advanced age at eligibility; and

(v) inmates who are not eligible for parole and are serving life sentences.

(5) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1)."

Section 45. Section 53-1-109, MCA, is amended to read:

"**53-1-109. Facility resident and prison inmate welfare account.** (1) There is an account in the state special revenue fund. The net proceeds from Pine Hills ~~youth~~ correctional facility resident and state prison inmate canteen purchases and resident or inmate telephone use, cash proceeds from the disposition of confiscated contraband, and any public money held for the needs of residents or inmates and their families and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107 may not be deposited in the account established in this subsection.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of corrections, which may allocate the money referred to in subsection (1) to the Pine Hills ~~youth~~ correctional facility and state prisons in proportion to the amount that each facility contributed to the fund. The superintendent of the Pine Hills ~~youth~~ correctional facility and the administrator of each state prison shall consult with the residents and inmates in the superintendent's or administrator's respective facility about the use of the money allocated to the Pine Hills ~~youth~~ correctional facility or the state prison and may use the money for the needs of that facility's residents or inmates and their families.

(3) For purposes of this section, "state prison" has the meaning provided in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4)."

Section 46. Section 53-1-201, MCA, is amended to read:

"**53-1-201. Purpose of department of corrections.** The department of corrections shall use at maximum efficiency the resources of state government in a coordinated effort to:

(1) develop and maintain comprehensive services and programs in the field of adult and youth corrections; and

(2) provide for the custody, assessment, care, supervision, treatment, education, rehabilitation, and work and skill development of ~~youth alleged to be youth in need of intervention or~~ formerly adjudicated delinquent youth who are referred or committed to the department."

Section 47. Section 53-1-202, MCA, is amended to read:

"**53-1-202. Department of corrections.** (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following correctional facilities or programs:

(a) ~~the prisons listed~~a state prison as defined in 53-30-101;

(b) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:

(i) in prerelease centers;

(ii) under intensive supervision;

(iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

(iv) in other appropriate programs; and

(c) the Montana correctional enterprises prison industries training program authorized by 53-30-131.

(3) Youth correctional services consist of the following correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth and youth in need of intervention pursuant to Title 52, chapter 5:

(a) Pine Hills ~~youth~~ correctional facility or other ~~state youth~~ correctional facility as defined in 41-5-103; and

(b) any other facility or program under contract with the department that provides custody and services for delinquent youth.

~~(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature.~~"

Section 48. Section 53-1-203, MCA, is amended to read:

"**53-1-203. Powers and duties of department of corrections.** (1) The department of corrections

shall:

(a) subject to subsection (6), adopt rules necessary:

(i) for the siting, establishment, and expansion of prerelease centers;

(ii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iii) for the establishment and maintenance of residential methamphetamine treatment programs; and

(iv) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 46-18-201 or 46-18-202 and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) encourage efforts within the department and at the local level that would develop housing options and resource materials related to housing for individuals who are released from the Montana state prison or community corrections programs;

(h) maintain data on the number of individuals who are discharged from the adult correction services listed in 53-1-202 into a homeless shelter or a homeless situation;

(i) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(j) collect and disseminate information relating to youth who are committed to the department for placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

(k) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(l) provide funding for youth who are committed to the department for placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

(m) administer ~~youth~~ correctional facilities as defined in 41-5-103; and

(n) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit

the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(7) The department shall ensure that risk and needs assessments drive the department's supervision and correctional practices, including integrating assessment results into supervision contact standards and case management. The department shall regularly validate its risk assessment tool."

Section 49. Section 53-1-207, MCA, is amended to read:

"**53-1-207. Authorization of inmate labor for designated construction projects -- exemptions.** (1) The department of corrections is authorized to use inmate labor for the purpose of construction projects at ~~the~~

~~Montana~~ a state prison that are authorized by the legislature.

(2) The department of administration shall provide for construction of the projects authorized by this section, which are to be built by the lowest responsible bidder, with contract specifications to allow the use of inmate labor. The percentage of inmate labor must be determined prior to the advertising for bid of the projects through negotiations among the department of corrections, the department of administration, representatives of construction industry employers, and representatives of the building trades."

Section 50. Section 53-30-101, MCA, is amended to read:

"**53-30-101. ~~Location and function of prisons -- definitions~~ State prison -- definition.** ~~(1) The correctional facility at Deer Lodge is the Montana state prison, and its primary function is to provide for the custody, treatment, training, and rehabilitation of adult male criminal offenders.~~

~~(2) The correctional facility located in Billings is the Montana women's prison, and its primary function is to provide for the custody, treatment, training, and rehabilitation of adult female criminal offenders.~~

~~(3)~~ As used in this title, unless the context indicates otherwise, ~~the following definitions apply~~ "state prison" means:

~~(a) "Montana state prison" means the correctional facility located at Deer Lodge.~~

~~(b) "Montana women's prison" or "women's prison" means the correctional facility located at Billings.~~

~~(c) "State prison" means:~~

~~(i) the Montana state prison;~~

~~(ii) the Montana women's prison;~~

(1) a state penal or correctional institution whose primary function is to provide for the custody, treatment, training, and rehabilitation of adult criminal offenders;

~~(iii)~~(2) a state penal or correctional facility portion of a Montana regional correctional facility;

~~(iv)~~(3) a detention center, a state penal facility, or a correctional facility in another jurisdiction detaining Montana inmates ~~from Montana~~ pursuant to 53-30-106;

~~(v)~~(4) a private correctional facility or penal facility licensed by the department of corrections or a private correctional facility or penal facility portion of a Montana regional correctional facility licensed by the department of corrections; or

~~(vi)~~(5) a combination of the facilities listed in this ~~subsection (3)(c)~~ section."

Section 51. Section 53-30-102, MCA, is amended to read:

"**53-30-102. Qualifications of state prison warden ~~of state prison and warden of women's prison~~.** The warden of ~~the Montana~~ a state prison ~~and the warden of the women's prison~~ must be ~~persons~~ trained through education and experience in directing a custody, treatment, training, or rehabilitation~~, or custodial~~ program in a penal or correctional institution."

Section 52. Section 53-30-141, MCA, is amended to read:

"**53-30-141. Extension of limits of confinement.** (1) The department of corrections may extend the limits of confinement of the ~~Montana~~ state prison in Deer Lodge for purposes of housing outside the prison fence inmates who:

(a) are employed in ranch or agricultural industry programs; and

(b) have demonstrated sufficient reliability and trustworthiness.

(2) Housing units outside the confines of the prison fence may be created by renovation of existing buildings or by the erection of modular-type units and associated facilities on the prison ranch.

(3) For the purpose of expediting the acquisition and construction of housing units authorized in subsection (2) the department of administration may exempt the project from provisions of Montana law relating to the employment of architects, advertising, labor, and wages. The department of administration need not comply with any state bidding requirements that would preclude a sole source purchase."

Section 53. Section 53-30-702, MCA, is amended to read:

"**53-30-702. Definitions.** As used in this part, the following definitions apply:

(1) "Administrative segregation" means a nonpunitive housing status for inmates whose continued presence in the general population may pose a serious threat to life, property, self, staff, other inmates, or the facility's security or orderly operation.

(2) "Administrator" means the official, regardless of local title, who is ultimately responsible for the operation and management of a division, facility, or program.

(3) "Department" means the department of corrections provided for in 2-15-2301.

(4) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, a person who has a record of such an impairment, or a person who is regarded as having such an impairment.

(5) "Disciplinary detention" means a form of separation from the general population in which an inmate who has committed a serious violation of conduct regulations is confined to an individual cell by a disciplinary committee or other authorized group for short periods of time.

(6) "Facility" means a state prison as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4) or a ~~youth~~ correctional facility pursuant to 52-5-101.

(7) "Mental disorder" means exhibiting impaired emotional, cognitive, or behavioral functioning that interferes seriously with an individual's ability to function adequately except with supportive treatment or services. The individual also must:

(a) currently have or have had within the past year a diagnosed mental disorder; and

(b) currently exhibit significant signs and symptoms of a mental disorder.

(8) "Postpartum" means the first 6 weeks after delivery.

(9) "Prehearing confinement" means a short-term, nonpunitive housing status that is used to safely and securely control high-risk or at-risk inmates.

(10) "Protective custody" means a form of separation from the general population for an inmate who requests or requires protection from other inmates for reasons of health or safety.

(11) "Qualified mental health professional" includes psychiatrists, psychologists, psychiatric social workers, licensed professional counselors, psychiatric nurses, or others who, by virtue of their education, credentials, and experience, are permitted by law to evaluate and care for the mental health needs of patients.

(12) "Restrictive housing" means a placement that requires an inmate to be confined to a cell for at least 22 hours a day for the safe and secure operation of the facility. The term includes administrative segregation, protective custody, and disciplinary detention.

(13) "Step-down program" means an individualized program that includes a system of review and establishes criteria to prepare an inmate for transition to the general population or the community and that involves a coordinated, multidisciplinary team approach that includes mental health, case management, and

security practitioners.

(14) "Temporary confinement" has the same meaning as "prehearing confinement" as defined in this section."

- END -

SENATE BILL NO. 344

INTRODUCED BY K. BOGNER

A BILL FOR AN ACT ENTITLED: “AN ACT ALLOWING THE DEPARTMENT OF CORRECTIONS TO REPURPOSE CORRECTIONAL FACILITIES SERVING YOUTH AND ADULT OFFENDERS; REDEFINING TERMS RELATED TO STATE YOUTH CORRECTIONAL FACILITIES AND STATE PRISONS; ALLOWING THE DEPARTMENT OF CORRECTIONS TO HOLD CERTAIN YOUTH AND ADULT OFFENDERS IN THE SAME FACILITY SUBJECT TO CERTAIN CONDITIONS; REVISING LAWS RELATED TO EXCESSIVE CAPACITY FOR CERTAIN CORRECTIONAL FACILITIES THAT HOUSE YOUTH AND THE DEPARTMENT'S DETERMINATION OF ALTERNATIVE PLACEMENTS; REQUIRING THE DEPARTMENT TO PRIORITIZE YOUTH NEEDS WHEN CONSIDERING THE USE OF A FACILITY PREVIOUSLY USED TO HOUSE YOUTH; ~~ELIMINATING A PROHIBITION ON THE DEPARTMENT FOR ABANDONING, MOVING, OR DISCONTINUING A CORRECTIONAL FACILITY OR STATE INSTITUTION;~~ AND AMENDING SECTIONS 19-20-101, 20-4-134, 20-4-502, 20-9-327, 41-5-103, 41-5-106, 41-5-122, 41-5-206, 41-5-208, 41-5-355, 41-5-1416, 41-5-1430, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, 41-5-1522, 41-5-1523, 41-5-2002, 41-5-2005, 45-5-214, 45-7-307, 45-8-318, 46-5-112, 46-23-102, 46-23-201, 50-5-101, 50-5-301, 52-2-302, 52-5-101, 52-5-108, 52-5-109, 52-5-110, 52-5-111, 52-5-112, 52-5-113, 52-5-114, 52-5-120, 52-5-121, 52-5-126, 52-5-128, 53-1-104, 53-1-105, 53-1-107, 53-1-109, 53-1-201, 53-1-202, 53-1-203, 53-1-207, 53-30-101, 53-30-102, 53-30-141, AND 53-30-702, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 19-20-101, MCA, is amended to read:

"**19-20-101. Definitions.** As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accumulated contributions" or "account balance" means the sum of all the amounts deducted from the compensation of a member or paid by a member and credited to the member's individual account in the annuity savings account, together with interest, minus any amount deducted for correction of errors and the

aggregate amount of all retirement benefit payments and refunds of accumulated contributions paid to or on behalf of the member.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality table and interest rate assumption set by the retirement board.

(3) "Alternate beneficiary" means an estate or an individual not designated as a beneficiary but that becomes a beneficiary pursuant to 19-20-1005.

(4) "Average final compensation" means a member's highest average earned compensation, determined pursuant to 19-20-805, on which all required contributions have been made.

(5) "Beneficiary designation" means the process that the retirement system prescribes pursuant to this chapter by which a person authorized by law designates one or more beneficiaries.

(6) "Beneficiary designation record" means either the hard copy form or electronic record prescribed by the retirement system and used by a person authorized by law to designate one or more beneficiaries.

(7) "Benefit recipient" means a retired member, a joint annuitant, or a beneficiary who is receiving a retirement allowance.

(8) "Contingent beneficiary" means a designated beneficiary with the right to receive any benefit or refund of accumulated contributions payable if there is no eligible primary beneficiary.

(9) "Creditable service" is that service defined by 19-20-401.

(10) "Date of termination" or "termination date" means the last date on which a member performed service in a position reportable to the retirement system.

(11) "Designated beneficiary" means one or more primary beneficiaries or contingent beneficiaries designated pursuant to 19-20-1006.

(12) (a) "Earned compensation" means, except as limited by subsections (12)(b) and (12)(c) or by 19-20-715, remuneration paid for the service of a member out of funds controlled by an employer before any pretax deductions allowed under the Internal Revenue Code are deducted.

(b) Earned compensation does not include:

(i) direct employer premium payments on behalf of members for medical, pharmaceutical, disability, life, vision, dental, or any other insurance;

(ii) any direct employer payment or reimbursement for:

(A) professional membership dues;

(B) maintenance;

(C) housing;

(D) day care;

(E) automobile, travel, lodging, or entertaining expenses; or

(F) any similar form of maintenance, allowance, or expenses;

(iii) the imputed value of health, life, or disability insurance or any other fringe benefits;

(iv) any noncash benefit provided by an employer to or on behalf of a member;

(v) termination pay unless included pursuant to 19-20-716;

(vi) compensation paid to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f);

(vii) payment for sick, annual, or other types of leave paid to a member prior to termination from employment or accrued in excess of that normally allowed;

(viii) incentive or bonus payments paid to a member that are not part of a series of annual payments;

(ix) a professional stipend paid pursuant to 20-4-134; or

(x) any similar payment or reimbursement made to or on behalf of a member by an employer.

(c) Adding a direct employer-paid or noncash benefit to an employee's contract or subtracting the same or a similar amount as a pretax deduction is considered a fringe benefit and not earned compensation.

(13) "Employer" means:

(a) the state of Montana;

(b) a public school district, as provided in 20-6-101 and 20-6-701;

(c) the office of public instruction;

(d) the board of public education;

(e) an education cooperative;

(f) the Montana school for the deaf and blind, as described in 20-8-101;

(g) the Montana youth challenge program, as defined in 10-1-101;

(h) a ~~state youth~~ correctional facility, as defined in 41-5-103;

(i) the Montana university system;

(j) a community college; or

(k) any other agency, political subdivision, or instrumentality of the state that employs a person who is designated a member of the retirement system pursuant to 19-20-302.

(14) "Extra duty service" means service in an educational services capacity that is not compensated as part of the normally assigned duties and functions of a school district teacher, administrator, or other employee but is regularly assigned to one or more school district teachers, administrators, or other employees as part of the regular operation of the school district's curricular and extracurricular programs.

(15) "Full-time service" means service that is:

(a) at least 180 days in a fiscal year;

(b) at least 140 hours a month during at least 9 months in a fiscal year; or

(c) at least 1,080 hours in a fiscal year under an alternative school calendar adopted by a school board and reported to the office of public instruction as required by 20-1-302. The standard for full-time service for a school district operating under an alternative school calendar must be applied uniformly to all employees of the school district required to be reported to the retirement system.

(16) "Individual" means a human being.

(17) "Internal Revenue Code" has the meaning provided in 15-30-2101.

(18) "Joint annuitant" means the one person that a retired member who has elected an optional allowance under 19-20-702(2), (4), or (5) has designated to receive a retirement allowance upon the death of the retired member.

(19) "Member" means a person who has an individual account in the annuity savings account. Unless otherwise specified, "member" refers to a tier one member or a tier two member.

(20) "Normal form" or "normal form benefit" means a monthly retirement benefit payable only for the lifetime of the retired member.

(21) "Normal retirement age" means an age no earlier than 60 years of age.

(22) "Part-time service" means service that is not full-time service. Part-time service must be credited in the proportion that the actual time worked compares to full-time service.

(23) "Position reportable to the retirement system" means a position in which an individual performs duties that would entitle the person to active membership in the retirement system under the provisions of 19-

20-302.

(24) "Primary beneficiary" means a designated beneficiary with a first right to receive any benefit or refund of accumulated contributions payable upon the death of the individual authorized by law to make the designation.

(25) "Regular interest" means interest at a rate set by the retirement board in accordance with 19-20-501(2).

(26) "Retired", "retired member", or "retiree" means a person who is considered in retired member status under the provisions of 19-20-810.

(27) "Retirement allowance" or "retirement benefit" means a monthly payment due to a retired member who has qualified for service or disability retirement or due to a joint annuitant or beneficiary.

(28) "Retirement board" or "board" means the retirement system's governing board provided for in 2-15-1010.

(29) "Retirement system", "system", or "plan" means the teachers' retirement system of the state of Montana provided for in 19-20-102.

(30) "Service" means the performance of duties that would entitle the person to active membership in the retirement system under the provisions of 19-20-302.

(31) "Termination" or "terminate" means that the employment relationship between the member and the member's employer has been terminated as required in 19-20-810.

(32) (a) "Termination pay" means any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment.

(b) Termination pay does not include:

(i) amounts that are not wages under section 3121 of the Internal Revenue Code, determined without regard to the wage base limitation; and

(ii) amounts that are payable to a member from a plan for the deferral of compensation under section 457(f) of the Internal Revenue Code, 26 U.S.C. 457(f).

(33) "Tier one member" means a person who became a member before July 1, 2013, and who has not withdrawn the member's account balance.

(34) "Tier two member" means a person who became a member on or after July 1, 2013, or who, after withdrawing the member's account balance, became a member again after July 1, 2013.

(35) "Vested" means that a member has been credited with at least 5 full years of membership service upon which contributions have been made and has a right to a future retirement benefit.

(36) "Written application" or "written election" means a written instrument, required by statute or the rules of the board, properly signed and filed with the board, that contains all the required information, including documentation that the board considers necessary."

Section 2. Section 20-4-134, MCA, is amended to read:

"**20-4-134. Professional stipends for teachers certified by national board for professional teaching standards.** (1) Pursuant to subsection (5), an annual stipend of up to $1,500 must be provided to each teacher who holds a current certificate from the national board for professional teaching standards if the teacher is:

(a) a full-time classroom teacher, librarian, or other full-time employee serving in an assignment covered by national board certification assessment;

(b) certified to teach in Montana under the provisions of 20-4-103; and

(c) a full-time employee of:

(i) a Montana public school district, as defined in 20-6-101;

(ii) an education cooperative, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101; or

(iv) a ~~state youth~~ correctional facility, as defined in 41-5-103.

(2) An annual stipend of up to $2,500 must be provided to each teacher who meets the criteria for the stipend in subsection (1) and who has an instructional assignment in a school identified as:

(a) a school in a high-poverty area eligible to participate in the community eligibility provision under Public Law 111-296; or

(b) an impacted school as defined in 20-4-502.

(3) A teacher becomes eligible for the stipend in subsection (1) in the school year beginning July 1 after the teacher obtains certification or recertification from the national board for professional teaching

standards.

(4) By March 1, the superintendent of public instruction shall distribute stipend payments to any entity listed in subsections (1)(c)(i) through (1)(c)(iv) that employs an eligible teacher.

(5) The obligation for funding a portion of the professional stipends is an obligation of the state. This section may not be construed to require a school district to provide its matching portion of a stipend to a qualifying teacher without a payment from the state to the district. If the money appropriated for the stipends is not enough to provide the full amount for each eligible teacher, the superintendent of public instruction shall request the state budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of the stipends.

(6) (a) For a stipend under subsection (1), the state shall pay $500 and another $1 for each $1 contributed by the teacher's school district, up to a maximum state contribution of $1,000.

(b) For a stipend under subsection (2), the state shall pay $1,000 and another $2 for each $1 contributed by the teacher's school district, up to a maximum state contribution of $2,000."

Section 3. Section 20-4-502, MCA, is amended to read:

"**20-4-502. Definitions.** For purposes of this part, unless the context requires otherwise, the following definitions apply:

(1) "Critical quality educator shortage area" means a specific licensure or endorsement area in an impacted school in which:

(a) in any of the 3 immediate preceding school fiscal years a position was:

(i) filled through the procedures set forth in 19-20-732, 20-4-106(1)(e), or 20-4-111;

(ii) filled from a candidate pool of less than five qualified candidates; or

(iii) advertised and remained vacant and unfilled due to a lack of qualified candidates for a period in excess of 30 days; or

(b) a vacancy for the current school year was advertised for a period of at least 30 days and the district received less than five applications from qualified candidates.

(2) "Education cooperative" means a cooperative of Montana public schools as described in 20-7-451.

(3) "Educational loans" means all loans made pursuant to a federal loan program, except federal parent loans for undergraduate students (PLUS) loans, as provided in 20 U.S.C. 1078-2.

(4) "Federal loan program" means educational loans authorized by 20 U.S.C. 1071, et seq., 20 U.S.C. 1087a, et seq., and 20 U.S.C. 1087aa, et seq.

(5) "Impacted school" means:

(a) a special education cooperative;

(b) the Montana school for the deaf and blind, as described in 20-8-101;

(c) the Montana youth challenge program, as established in 10-1-1401;

(d) a ~~state youth~~ correctional facility, as defined in 41-5-103;

(e) a public school located on an Indian reservation; and

(f) a public school that, driving at a reasonable speed for the road surface, is located more than 20 minutes from a Montana city with a population greater than 15,000 based on the most recent federal decennial census.

(6) (a) "Quality educator" means a full-time equivalent educator, as reported to the superintendent of public instruction for accreditation purposes in the current school year, who:

(i) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (6)(b) in a position that requires an educator license in accordance with administrative rules adopted by the board of public education; or

(ii) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302 and is employed by an entity listed in subsection (6)(b) of this section to provide services to students.

(b) For purposes of subsection (6)(a), an entity means:

(i) a school district;

(ii) an education cooperative;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) the Montana youth challenge program; and

(v) a ~~state youth~~ correctional facility, as defined in 41-5-103.

(7) "School district" means a public school district, as provided in 20-6-101 and 20-6-701."

Section 4. Section 20-9-327, MCA, is amended to read:

"**20-9-327. Quality educator payment.** (1) (a) The state shall provide a quality educator payment to:

(i) public school districts, as defined in 20-6-101 and 20-6-701;

(ii) special education cooperatives, as described in 20-7-451;

(iii) the Montana school for the deaf and blind, as described in 20-8-101;

(iv) ~~state youth~~ correctional facilities, as defined in 41-5-103; and

(v) the Montana youth challenge program.

(b) A special education cooperative that has not met the requirements of 20-7-454 may not be funded under the provisions of this section except by approval of the superintendent of public instruction.

(2) (a) The quality educator payment for special education cooperatives must be distributed directly to those entities by the superintendent of public instruction.

(b) The quality educator payment for the Montana school for the deaf and blind must be distributed to the Montana school for the deaf and blind.

(c) The quality educator payment for Pine Hills ~~youth~~ correctional facility and the facility under contract with the department of corrections for female youth must be distributed to those facilities by the department of corrections.

(d) The quality educator payment for the Montana youth challenge program must be distributed to that program by the department of military affairs.

(3) The quality educator payment is calculated as provided in 20-9-306, using the number of full-time equivalent educators, as reported to the superintendent of public instruction for accreditation purposes in the previous school year, each of whom:

(a) holds a valid certificate under the provisions of 20-4-106 and is employed by an entity listed in subsection (1) of this section in a position that requires an educator license in accordance with the administrative rules adopted by the board of public education;

(b) (i) is a licensed professional under 37-8-405, 37-8-415, 37-11-301, 37-15-301, 37-17-302, 37-22-301, 37-23-201, 37-24-301, or 37-25-302; and

(ii) is employed by an entity listed in subsection (1) to provide services to students; or

(c) (i) holds an American Indian language and culture specialist license; and

(ii) is employed by an entity listed in subsection (1) to provide services to students in an Indian language immersion program pursuant to Title 20, chapter 7, part 14. (Subsection (3)(c) terminates June 30, 2023--sec. 1, Ch. 171, L. 2019.)"

Section 5. Section 41-5-103, MCA, is amended to read:

"**41-5-103. Definitions.** As used in the Montana Youth Court Act, unless the context requires otherwise, the following definitions apply:

(1) "Adult" means an individual who is 18 years of age or older.

(2) "Agency" means any entity of state or local government authorized by law to be responsible for the care or rehabilitation of youth.

(3) "Assessment officer" means a person who is authorized by the court to provide initial intake and evaluation for a youth who appears to be in need of intervention or an alleged delinquent youth.

(4) "Commit" means to transfer legal custody of a youth to the department or to the youth court.

(5) "Conditional release" means the release of a youth from a ~~state youth~~ correctional facility subject to the terms and conditions of the conditional release agreement provided for in 52-5-126.

(6) (a) "Correctional facility" means a public secure residential facility or a private~~, physically~~ secure residential facility under contract with the department and operated ~~solely for the purpose of housing adjudicated delinquent youth~~ to provide for the custody, treatment, training, and rehabilitation of:

(i) formally adjudicated delinquent youth;

(ii) convicted adult offenders or criminally convicted youth; or

(iii) a combination of the populations described in subsections (6)(a)(i) and (6)(a)(ii) under conditions set by the department in rule.

(b) The term does not include a state prison as defined in 53-30-101.

(7) "Cost containment pool" means an account from which funds are allocated by the office of court administrator under 41-5-132 to a judicial district that exceeds its annual allocation for juvenile out-of-home placements, programs, and services or to the department for costs incurred under 41-5-1504.

(8) "Cost containment review panel" means the panel established in 41-5-131.

(9) "Court", when used without further qualification, means the youth court of the district court.

(10) "Criminally convicted youth" means a youth who has been convicted in a district court pursuant to 41-5-206.

(11) (a) "Custodian" means a person, other than a parent or guardian, to whom legal custody of the youth has been given.

(b) The term does not include a person who has only physical custody.

(12) "Delinquent youth" means a youth who is adjudicated under formal proceedings under the Montana Youth Court Act as a youth:

(a) who has committed an offense that, if committed by an adult, would constitute a criminal offense;

(b) who has been placed on probation as a delinquent youth and who has violated any condition of probation; or

(c) who has violated the terms and conditions of the youth's conditional release agreement.

(13) "Department" means the department of corrections provided for in 2-15-2301.

(14) (a) "Department records" means information or data, either in written or electronic form, maintained by the department pertaining to youth who are committed under 41-5-1513(1)(b).

(b) Department records do not include information provided by the department to the department of public health and human services' management information system or information maintained by the youth court through the office of court administrator.

(15) "Detention" means the holding or temporary placement of a youth in the youth's home under home arrest or in a facility other than the youth's own home for:

(a) the purpose of ensuring the continued custody of the youth at any time after the youth is taken into custody and before final disposition of the youth's case;

(b) contempt of court or violation of a valid court order; or

(c) violation of the terms and conditions of the youth's conditional release agreement.

(16) "Detention facility" means a physically restricting facility designed to prevent a youth from departing at will. The term includes a youth detention facility, short-term detention center, and regional detention facility.

(17) "Emergency placement" means placement of a youth in a youth care facility for less than 45 days

to protect the youth when there is no alternative placement available.

(18) "Family" means the parents, guardians, legal custodians, and siblings or other youth with whom a youth ordinarily lives.

(19) "Final disposition" means the implementation of a court order for the disposition or placement of a youth as provided in 41-5-1422, 41-5-1503, 41-5-1504, 41-5-1512, 41-5-1513, and 41-5-1522 through 41-5-1525.

(20) (a) "Formal youth court records" means information or data, either in written or electronic form, on file with the clerk of district court pertaining to a youth under the jurisdiction of the youth court and includes petitions, motions, other filed pleadings, court findings, verdicts, orders and decrees, and predispositional studies.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(21) "Foster home" means a private residence licensed by the department of public health and human services for placement of a youth.

(22) "Guardian" means an adult:

(a) who is responsible for a youth and has the reciprocal rights, duties, and responsibilities with the youth; and

(b) whose status is created and defined by law.

(23) "Habitual truancy" means recorded unexcused absences of 9 or more days or 54 or more parts of a day, whichever is less, in 1 school year.

(24) (a) "Holdover" means a room, office, building, or other place approved by the board of crime control for the temporary detention and supervision of youth in a physically unrestricting setting for a period not to exceed 24 hours while the youth is awaiting a probable cause hearing, release, or transfer to an appropriate detention or shelter care facility.

(b) The term does not include a jail.

(25) (a) "Informal youth court records" means information or data, either in written or electronic form, maintained by youth court probation offices pertaining to a youth under the jurisdiction of the youth court and includes reports of preliminary inquiries, youth assessment materials, medical records, school records, and

supervision records of probationers.

(b) The term does not include information provided by the youth court to the department of public health and human services' management information system.

(26) (a) "Jail" means a facility used for the confinement of adults accused or convicted of criminal offenses. The term includes a lockup or other facility used primarily for the temporary confinement of adults after arrest.

(b) The term does not include a collocated juvenile detention facility that complies with 28 CFR, part 31.

(27) "Judge", when used without further qualification, means the judge of the youth court.

(28) "Juvenile home arrest officer" means a court-appointed officer administering or supervising juveniles in a program for home arrest, as provided for in Title 46, chapter 18, part 10.

(29) "Law enforcement records" means information or data, either in written or electronic form, maintained by a law enforcement agency, as defined in 7-32-201, pertaining to a youth covered by this chapter.

(30) (a) "Legal custody" means the legal status created by order of a court of competent jurisdiction that gives a person the right and duty to:

(i) have physical custody of the youth;

(ii) determine with whom the youth shall live and for what period;

(iii) protect, train, and discipline the youth; and

(iv) provide the youth with food, shelter, education, and ordinary medical care.

(b) An individual granted legal custody of a youth shall personally exercise the individual's rights and duties as guardian unless otherwise authorized by the court entering the order.

(31) "Necessary parties" includes the youth and the youth's parents, guardian, custodian, or spouse.

(32) (a) "Out-of-home placement" means placement of a youth in a program, facility, or home, other than a custodial parent's home, for purposes other than preadjudicatory detention.

(b) The term does not include shelter care or emergency placement of less than 45 days.

(33) (a) "Parent" means the natural or adoptive parent.

(b) The term does not include:

(i) a person whose parental rights have been judicially terminated; or

(ii) the putative father of an illegitimate youth unless the putative father's paternity is established by an adjudication or by other clear and convincing proof.

(34) "Probable cause hearing" means the hearing provided for in 41-5-332.

(35) "Regional detention facility" means a youth detention facility established and maintained by two or more counties, as authorized in 41-5-1804.

(36) "Restitution" means payments in cash to the victim or with services to the victim or the general community when these payments are made pursuant to a consent adjustment, consent decree, or other youth court order.

(37) "Running away from home" means that a youth has been reported to have run away from home without the consent of a parent or guardian or a custodian having legal custody of the youth.

(38) "Secure detention facility" means a public or private facility that:

(a) is used for the temporary placement of youth or individuals accused or convicted of criminal offenses or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional release agreement, or violation of a valid court order; and

(b) is designed to physically restrict the movements and activities of youth or other individuals held in lawful custody of the facility.

(39) "Serious juvenile offender" means a youth who has committed an offense that would be considered a felony offense if committed by an adult and that is an offense against a person, an offense against property, or an offense involving dangerous drugs.

(40) "Shelter care" means the temporary substitute care of youth in physically unrestricting facilities.

(41) "Shelter care facility" means a facility used for the shelter care of youth. The term is limited to the facilities enumerated in 41-5-347.

(42) "Short-term detention center" means a detention facility licensed by the department for the temporary placement or care of youth, for a period not to exceed 10 days excluding weekends and legal holidays, pending a probable cause hearing, release, or transfer of the youth to an appropriate detention facility, youth assessment center, or shelter care facility.

~~(43) "State youth correctional facility" means the Pine Hills youth correctional facility in Miles City or the correctional facility under contract with the department for female youth.~~

~~(44)~~(43) "Substitute care" means full-time care of youth in a residential setting for the purpose of providing food, shelter, security and safety, guidance, direction, and, if necessary, treatment to youth who are removed from or are without the care and supervision of their parents or guardians.

~~(45)~~(44) "Victim" means:

(a) a person who suffers property, physical, or emotional injury as a result of an offense committed by a youth that would be a criminal offense if committed by an adult;

(b) an adult relative of the victim, as defined in subsection ~~(45)(a)~~ (44)(a), if the victim is a minor; and

(c) an adult relative of a homicide victim.

~~(46)~~(45) "Youth" means an individual who is less than 18 years of age without regard to sex or emancipation.

~~(47)~~(46) "Youth assessment" means a multidisciplinary assessment of a youth as provided in 41-5-1203.

~~(48)~~(47) "Youth assessment center" means a staff-secured location that is licensed by the department of public health and human services to hold a youth for up to 10 days for the purpose of providing an immediate and comprehensive community-based youth assessment to assist the youth and the youth's family in addressing the youth's behavior.

~~(49)~~(48) "Youth care facility" has the meaning provided in 52-2-602.

~~(50)~~(49) "Youth court" means the court established pursuant to this chapter to hear all proceedings in which a youth is alleged to be a delinquent youth, a youth in need of intervention, or a youth alleged to have violated the terms and conditions of the youth's conditional release agreement and includes the youth court judge, juvenile probation officers, and assessment officers.

~~(51)~~(50) "Youth detention facility" means a secure detention facility licensed by the department for the temporary substitute care of youth that is:

(a) (i) operated, administered, and staffed separately and independently of a jail; or

(ii) a collocated secure detention facility that complies with 28 CFR, part 31; and

(b) used exclusively for the lawful detention of alleged or adjudicated delinquent youth or as a sanction for contempt of court, violation of the terms and conditions of the youth's conditional release agreement, or violation of a valid court order.

~~(52)~~(51) "Youth in need of intervention" means a youth who is adjudicated as a youth and who:

(a) commits an offense prohibited by law that if committed by an adult would not constitute a criminal offense, including but not limited to a youth who:

(i) violates any Montana municipal or state law regarding alcoholic beverages; or

(ii) continues to exhibit behavior, including running away from home or habitual truancy, beyond the control of the youth's parents, foster parents, physical custodian, or guardian despite the attempt of the youth's parents, foster parents, physical custodian, or guardian to exert all reasonable efforts to mediate, resolve, or control the youth's behavior; or

(b) has committed any of the acts of a delinquent youth but whom the youth court, in its discretion, chooses to regard as a youth in need of intervention."

Section 6. Section 41-5-106, MCA, is amended to read:

"**41-5-106. Order of adjudication -- noncriminal.** ~~No~~ A placement of any youth in any ~~state youth~~ correctional facility under this chapter ~~shall~~ may not be deemed commitment to a penal institution. ~~No~~ An adjudication ~~upon~~ on the status of any youth in the jurisdiction of the court ~~shall~~ may not operate to impose any of the civil disability imposed on a person by reason of conviction of a criminal offense~~,~~..... ~~nor shall such~~ An adjudication may not be deemed a criminal conviction, ~~nor shall any~~ and a youth may not be charged with or convicted of any crime in any court except as provided in this chapter. Neither the disposition of a youth under this chapter nor evidence given in youth court proceedings under this chapter ~~shall be~~ is admissible in evidence except as otherwise provided in this chapter."

Section 7. Section 41-5-122, MCA, is amended to read:

"**41-5-122. Duties of youth placement committee.** A youth placement committee shall:

(1) review all information relevant to the placement of a youth;

(2) consider available resources appropriate to meet the needs of the youth;

(3) consider the treatment recommendations of any professional person who has evaluated the youth;

(4) consider options for the financial support of the youth;

(5) recommend in writing to the youth court judge or the department an appropriate placement for the

youth, considering the age and treatment needs of the youth and the relative costs of care in facilities considered appropriate for placement. A committee shall consider placement in a licensed facility, at a ~~state youth~~ correctional facility, or with a parent, other family member, or guardian.

(6) review temporary and emergency placements as required under 41-5-124; and

(7) conduct placement reviews at least every 6 months and at other times as requested by the youth court."

Section 8. Section 41-5-206, MCA, is amended to read:

"**41-5-206. Filing in district court prior to formal proceedings in youth court.** (1) The county attorney may, in the county attorney's discretion and in accordance with the procedure provided in 46-11-201, file with the district court a motion for leave to file an information in the district court if:

(a) the youth charged was 12 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act would if it had been committed by an adult constitute:

(i) sexual intercourse without consent as defined in 45-5-503;

(ii) deliberate homicide as defined in 45-5-102;

(iii) mitigated deliberate homicide as defined in 45-5-103;

(iv) assault on a peace officer or judicial officer as defined in 45-5-210; or

(v) the attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for either deliberate or mitigated deliberate homicide; or

(b) the youth charged was 16 years of age or older at the time of the conduct alleged to be unlawful and the unlawful act is one or more of the following:

(i) negligent homicide as defined in 45-5-104;

(ii) arson as defined in 45-6-103;

(iii) aggravated assault as defined in 45-5-202;

(iv) sexual assault as provided in 45-5-502(3);

(v) assault with a weapon as defined in 45-5-213;

(vi) robbery as defined in 45-5-401;

(vii) burglary or aggravated burglary as defined in 45-6-204;

(viii) aggravated kidnapping as defined in 45-5-303;

(ix) possession of explosives as defined in 45-8-335;

(x) criminal distribution of dangerous drugs as defined in 45-9-101;

(xi) criminal possession of dangerous drugs as defined in 45-9-102(3);

(xii) criminal possession with intent to distribute as defined in 45-9-103(1);

(xiii) criminal production or manufacture of dangerous drugs as defined in 45-9-110;

(xiv) use of threat to coerce criminal street gang membership or use of violence to coerce criminal street gang membership as defined in 45-8-403;

(xv) escape as defined in 45-7-306;

(xvi) attempt, as defined in 45-4-103, of or accountability, as provided in 45-2-301, for any of the acts enumerated in subsections (1)(b)(i) through (1)(b)(xv).

(2) The county attorney shall file with the district court a petition for leave to file an information in district court if the youth was 17 years of age at the time the youth committed an offense listed under subsection (1).

(3) The district court shall grant leave to file the information if it appears from the affidavit or other evidence supplied by the county attorney that there is probable cause to believe that the youth has committed the alleged offense. Within 30 days after leave to file the information is granted, the district court shall conduct a hearing to determine whether the matter must be transferred back to the youth court, unless the hearing is waived by the youth or by the youth's counsel in writing or on the record. The hearing may be continued on request of either party for good cause. The district court may not transfer the case back to the youth court unless the district court finds, by a preponderance of the evidence, that:

(a) a youth court proceeding and disposition will serve the interests of community protection;

(b) the nature of the offense does not warrant prosecution in district court; and

(c) it would be in the best interests of the youth if the matter was prosecuted in youth court.

(4) The filing of an information in district court terminates the jurisdiction of the youth court over the youth with respect to the acts alleged in the information. A youth may not be prosecuted in the district court for a criminal offense originally subject to the jurisdiction of the youth court unless the case has been filed in the district court as provided in this section. A case may be transferred to district court after prosecution as

provided in 41-5-208 or 41-5-1605.

(5) An offense not enumerated in subsection (1) that arises during the commission of a crime enumerated in subsection (1) may be:

(a) tried in youth court;

(b) transferred to district court with an offense enumerated in subsection (1) upon motion of the county attorney and order of the district court. The district court shall hold a hearing before deciding the motion.

(6) If a youth is found guilty in district court of an offense enumerated in subsection (1) and any offense that arose during the commission of a crime enumerated in subsection (1), the court shall sentence the youth pursuant to 41-5-2503 and Titles 45 and 46. If a youth is acquitted in district court of all offenses enumerated in subsection (1), the district court shall sentence the youth pursuant to Title 41 for any remaining offense for which the youth is found guilty. A youth who is sentenced to the department or a state prison must be evaluated and placed by the department in an appropriate ~~juvenile or adult~~ correctional facility. The department shall confine the youth in an institution that it considers proper, including a ~~state youth~~ correctional facility under the procedures of 52-5-111. However, a youth under 16 years of age may not be confined in a state prison facility. During the period of confinement, school-aged youth with disabilities must be provided an education consistent with the requirements of the federal Individuals With Disabilities Education Act, 20 U.S.C. 1400, et seq.

(7) If a youth's case is filed in the district court and remains in the district court after the transfer hearing, the youth may be detained in a jail or other adult detention facility pending final disposition of the youth's case if the youth is kept in an area that provides physical separation from adults accused or convicted of criminal offenses."

Section 9. Section 41-5-208, MCA, is amended to read:

"**41-5-208. Transfer of supervisory responsibility to district court after juvenile disposition -- nonextended jurisdiction and nontransferred cases.** (1) After adjudication by the court of a case that was not transferred to district court under 41-5-206 and that was not prosecuted as an extended jurisdiction juvenile prosecution under part 16 of this chapter, the court may, on the youth's motion or the motion of the county attorney, transfer jurisdiction to the district court and order the transfer of supervisory responsibility from

juvenile probation services to adult probation services. A transfer under this section may be made to ensure continued compliance with the court's disposition under 41-5-1512 or 41-5-1513 and may be made at any time after a youth reaches 18 years of age but before the youth reaches 21 years of age.

(2) Before transfer, the court shall hold a hearing on whether the transfer should be made. The hearing must be held in conformity with the rules on a hearing on a petition alleging delinquency, except that the hearing must be conducted by the court without a jury. The court shall give the youth, the youth's counsel, and the youth's parents, guardian, or custodian notice in writing of the time, place, and purpose of the hearing at least 10 days before the hearing. At the hearing, the youth is entitled to receive:

(a) written notice of the motion to transfer;

(b) an opportunity to be heard in person and to present witnesses and evidence;

(c) a written statement by the court of the evidence relied on and reasons for the transfer;

(d) the right to cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) the right to counsel.

(3) After the hearing, if the court finds by a preponderance of the evidence that transfer of continuing supervisory responsibility to the district court is appropriate, the court shall order the transfer.

(4) If a youth whose case has been transferred to district court under this section violates a disposition previously imposed under 41-5-1512 or 41-5-1513, the district court may, after hearing, impose conditions as provided under 46-18-201 through 46-18-203 but may not place a youth in a state adult correctional facility unless the youth was adjudicated for a felony offense.

(5) If, at the time of transfer, the youth is incarcerated in a ~~state youth~~ correctional facility, the district court may order that the youth, after reaching 18 years of age:

(a) be incarcerated in a state adult correctional facility if the youth was adjudicated for a felony offense, boot camp, or prerelease center; or

(b) be supervised by the department.

(6) The district court's jurisdiction over a case transferred under this section terminates when the youth reaches 25 years of age."

Section 10. Section 41-5-355, MCA, is amended to read:

"**41-5-355. ~~Excessive juvenile population -- confinement~~Confinement of juveniles ~~in alternate placements.~~** (1) The department shall determine the capacity ~~for state youth~~ of correctional facilities. ~~The department shall notify all district courts, sheriffs, and youth courts of the capacity for each state youth correctional facility by sending a report to each annually.~~

~~(2) If the population of a state youth correctional facility exceeds the capacity established by the department, the director of the department may declare that the capacity has been exceeded and temporarily stop admissions to the facility. The director shall notify each district court, sheriff, and youth court that delinquent or criminally convicted youth will not be accepted by the department for admission into the facility until the population is reduced to less than the capacity determined by the department in subsection (1).~~

~~(3)~~(2) ~~If the director of the~~ The department ~~declares that the capacity has been exceeded, the department shall~~ may place delinquent youth committed to a ~~state youth~~ correctional facility or criminally convicted youth ~~in alternate placements~~ based on the needs of the ~~delinquent youth or criminally convicted~~ youth. ~~If a youth is denied placement in a state youth correctional facility under this section, the department shall inform and seek approval of the district court of the intended alternative placement prior to placing the youth.~~

~~(4)~~(3) The department may enter into contracts with the federal government, other states, local governments, public or private corporations, and other entities that have suitable facilities for confining delinquent youth or criminally convicted youth committed to the department~~, either because a state youth correctional facility has exceeded its capacity or because the department has no youth correctional facility that is adequate for certain delinquent youth or criminally convicted youth~~."

Section 11. Section 41-5-1416, MCA, is amended to read:

"**41-5-1416. Victims and witnesses of juvenile felony offenses -- consultation -- notification of proceedings.** (1) The attorney general shall ensure that the services and assistance that must be provided under Title 46, chapter 24, to a victim or witness of a crime are also provided to the victim or witness of a juvenile felony offense.

(2) In a proceeding filed under this part, the county attorney or a designee shall consult with the victim

of a juvenile felony offense regarding the disposition of the case, including:

(a) a dismissal of the petition filed under 41-5-1402;

(b) a reduction of the charge to misdemeanor;

(c) the release of the youth from detention or shelter care pending the adjudicatory hearing or pending a probable cause hearing. The consultation required by this subsection (2)(c) must take place prior to the youth's release, whether or not the county attorney or designee has received information from the victim under subsection (3)(a), unless the county attorney or designee is unable to contact the victim after making a good faith effort to contact the victim.

(d) the disposition of the youth.

(3) (a) Whenever possible, a person described in subsection (3)(b) who provides the appropriate agency with a current address and telephone number must receive prompt advance notification of youth court case proceedings, including:

(i) the filing of a petition under 41-5-1402;

(ii) the release of the youth from detention or shelter care; and

(iii) proceedings in the adjudication of the petition, including, when applicable, entry of a consent decree under 41-5-1501, the setting of a date for the adjudicatory hearing under 41-5-1502, the setting of a date for the dispositional hearing under 41-5-1511, the disposition made, and the release of the youth from a ~~youth~~ correctional facility.

(b) A person entitled to notification under this subsection (3) must be a victim, as defined in 41-5-103, of a juvenile felony offense.

(c) The county attorney or a designee who provides the consultation regarding the disposition of a case required in subsection (2) shall give the victim the opportunity to provide the victim's current telephone number and address and shall provide the victim with the name and address of the agency or agencies responsible for operation of youth detention, correctional, or shelter care facilities that are responsible for the custody of the youth.

(d) The appropriate official or agency shall provide the notification required by this subsection (3) in the same manner as required for offenses committed by adults.

(4) For purposes of this section, "juvenile felony offense" means an offense committed by a juvenile

that, if committed by an adult, would constitute a felony offense. The term includes any offense for which a juvenile may be declared a serious juvenile offender, as defined in 41-5-103."

Section 12. Section 41-5-1430, MCA, is amended to read:

"**41-5-1430. Conditional release revocation hearing.** (1) (a) If a county attorney files a petition to revoke a youth's conditional release, the court shall hold a revocation hearing without a jury within 10 working days after the petition is filed, except as provided in subsection (1)(b).

(b) (i) If a youth alleged to have violated the terms and conditions of the youth's conditional release agreement has been taken into custody and placed in detention, the court shall conduct a probable cause hearing in accordance with 41-5-332 through 41-5-334.

(ii) If the court determines that there is probable cause to believe that the youth has violated the terms and conditions of the youth's conditional release agreement and the county attorney determines that revocation is warranted, the county attorney shall file a petition to revoke within 7 working days. The court shall hold a revocation hearing without a jury within 10 working days after the petition has been filed.

(iii) If the county attorney does not file a petition to revoke, the youth must be released unless good cause is shown to further detain the youth.

(2) In regard to the conditional release revocation hearing, the youth is entitled to:

(a) receive written notice of the alleged violation of the terms and conditions of the youth's conditional release;

(b) receive evidence of the alleged violation;

(c) an opportunity to be heard in person or by interactive video transmission and to present witnesses and evidence;

(d) cross-examine witnesses, unless the court finds good cause for not allowing confrontation; and

(e) be represented by counsel.

(3) After the revocation hearing, if the court finds by a preponderance of the evidence presented that the youth has violated the terms and conditions of the youth's conditional release, the court may revoke the youth's conditional release and return the youth to a ~~state youth~~ correctional facility or make any other judgment or disposition that could have been made under the original judgment."

Section 13. Section 41-5-1503, MCA, is amended to read:

"**41-5-1503. Medical or psychological evaluation of youth -- urinalysis.** (1) The youth court may order a youth to receive a medical or psychological evaluation at any time prior to final disposition if the youth waives the youth's constitutional rights in the manner provided for in 41-5-331. Except as provided in subsection (2), the youth court shall pay for the cost of the evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(2) The youth court shall determine the financial ability of the youth's parents or guardians to pay the cost of an evaluation ordered by the court under subsection (1). If they are financially able, the court shall order the youth's parents or guardians to pay all or part of the cost of the evaluation.

(3) Subject to 41-5-1512(1)(o)(i), the youth court may not order an evaluation or placement of a youth at a ~~state youth~~ correctional facility unless the youth is found to be a delinquent youth or is alleged to have committed an offense that is listed in 41-5-206.

(4) An evaluation of a youth may not be performed at the Montana state hospital.

(5) In a proceeding alleging a youth to be a delinquent youth, upon a finding of an offense related to use of alcohol or illegal drugs, the court may order the youth to undergo urinalysis for the purpose of determining whether the youth is using alcoholic beverages or illegal drugs."

Section 14. Section 41-5-1504, MCA, is amended to read:

"**41-5-1504. Finding of suffering from mental disorder and meeting other criteria -- rights -- limitation on placement.** (1) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) is entitled to all rights provided by 53-21-114 through 53-21-119.

(2) A youth who, prior to placement or sentencing, is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1) may not be committed or sentenced to a ~~state youth~~ correctional facility.

(3) (a) A youth who is found to be suffering from a mental disorder, as defined in 53-21-102, and who meets the criteria in 53-21-126(1), after placement in or sentencing to a ~~state youth~~ correctional facility must be

moved to a more appropriate placement in response to the youth's mental health needs and consistent with the disposition alternatives available in 53-21-127.

(b) (i) If before removing the youth from the facility the department determines that it will request funds for the youth's placement from the cost containment pool as provided for in 41-5-132, the department may ask the cost containment review panel to make recommendations to the department about the most appropriate placement for the youth. The department shall provide the cost containment review panel with sufficient information about the youth to allow the panel to make its recommendations, and the department shall consider the panel's recommendations before making its placement decision.

(ii) The department may request at any time from the cost containment review panel recommendations regarding the youth's placement.

(iii) The cost containment review panel shall establish protocols for making recommendations to the department under this section."

Section 15. Section 41-5-1512, MCA, is amended to read:

"**41-5-1512. Disposition of youth in need of intervention or youth who violate consent adjustments.** (1) If a youth is found to be a youth in need of intervention or to have violated a consent adjustment, the youth court may enter its judgment making one or more of the following dispositions:

(a) place the youth on probation. The youth court shall retain jurisdiction in a disposition under this subsection.

(b) place the youth in a residence that ensures that the youth is accountable, that provides for rehabilitation, and that protects the public. Before placement, the sentencing judge shall seek and consider placement recommendations from the youth placement committee if a committee has been established as provided for in 41-5-121.

(c) commit the youth to the youth court for the purposes of placement in a private, out-of-home facility subject to the conditions in 41-5-1522. In an order committing a youth to the youth court, the court shall determine whether continuation in the youth's own home would be contrary to the welfare of the youth and whether reasonable efforts have been made to prevent or eliminate the need for removal of the youth from the youth's home.

(d) order restitution for damages that result from the offense for which the youth is disposed by the youth or by the person who contributed to the delinquency of the youth;

(e) require the performance of community service;

(f) require the youth, the youth's parents or guardians, or the persons having legal custody of the youth to receive counseling services;

(g) require the medical and psychological evaluation of the youth, the youth's parents or guardians, or the persons having legal custody of the youth;

(h) require the parents, guardians, or other persons having legal custody of the youth to furnish services the court may designate;

(i) order further care, treatment, evaluation, or relief that the court considers beneficial to the youth and the community;

(j) subject to the provisions of 41-5-1504, commit the youth to a mental health facility if, based on the testimony of a professional person as defined in 53-21-102, the court finds that the youth is found to be suffering from a mental disorder, as defined in 53-21-102, and meets the criteria in 53-21-126(1);

(k) place the youth under home arrest as provided in Title 46, chapter 18, part 10;

(l) order confiscation of the youth's driver's license, if the youth has one, by the juvenile probation officer for a specified period of time, not to exceed 90 days. The juvenile probation officer shall notify the department of justice of the confiscation and its duration. The department of justice may not enter the confiscation on the youth's driving record. The juvenile probation officer shall notify the department of justice when the confiscated driver's license has been returned to the youth. A youth's driver's license may be confiscated under this subsection more than once. The juvenile probation officer may, in the juvenile probation officer's discretion and with the concurrence of a parent or guardian, return a youth's confiscated driver's license before the termination of the time period for which it had been confiscated. The confiscation may not be used by an insurer as a factor in determining the premium or part of a premium to be paid for motor vehicle insurance covering the youth or a vehicle or vehicles driven by the youth and may not be used as grounds for denying coverage for an accident or other occurrence under an existing policy.

(m) order the youth to pay a contribution covering all or a part of the costs for adjudication, disposition, and attorney fees for the costs of prosecuting or defending the youth and costs of detention,

supervision, care, custody, and treatment of the youth, including the costs of counseling;

(n) order the youth to pay a contribution covering all or a part of the costs of a victim's counseling;

(o) defer imposition of sentence for up to 45 days for a placement evaluation at a suitable program or facility with the following conditions:

(i) The court may not order placement for evaluation at a ~~youth~~ correctional facility of a youth who has committed an offense that would not be a criminal offense if committed by an adult or a youth who has violated a consent adjustment.

(ii) The placement for evaluation must be on a space-available basis. Except as provided in subsection (1)(o)(iii), the court shall pay the cost of the placement for evaluation from its judicial district's allocation provided for in 41-5-130 or 41-5-2012.

(iii) The court may require the youth's parents or guardians to pay a contribution covering all or a part of the costs of the evaluation if the court determines after an examination of financial ability that the parents or guardians are able to pay the contribution. Any remaining unpaid costs of evaluation are the financial responsibility of the judicial district of the court that ordered the evaluation.

(p) order placement of a youth in a youth assessment center for up to 10 days; or

(q) order the youth to participate in mediation that is appropriate for the offense committed.

(2) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth.

(3) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator."

Section 16. Section 41-5-1513, MCA, is amended to read:

"**41-5-1513. Disposition -- delinquent youth -- restrictions.** (1) If a youth is found to be a delinquent youth, the youth court may enter its judgment making one or more of the following dispositions:

(a) any one or more of the dispositions provided in 41-5-1512;

(b) subject to 41-5-1504, 41-5-1512(1)(o)(i), and 41-5-1522, commit the youth to the department for

placement in a ~~state youth~~ correctional facility or other appropriate program as determined by the department and recommend to the department that the youth not be released until the youth reaches 18 years of age. ~~The provisions of 41-5-355relating to alternative placements apply to placements under this subsection (1)(b).~~ The court may not place a youth adjudicated to be a delinquent youth in a ~~state youth~~ correctional facility for an act that would be a misdemeanor if committed by an adult unless:

(i) the youth committed four or more misdemeanors in the prior 12 months;

(ii) a psychiatrist or a psychologist licensed by the state or a licensed clinical professional counselor or a licensed clinical social worker has evaluated the youth and recommends placement in a ~~state youth~~ correctional facility; and

(iii) the court finds that the youth will present a danger to the public if the youth is not placed in a ~~state youth~~ correctional facility.

(c) subject to the provisions of subsection (6), require a youth found to be a delinquent youth, as the result of the commission of an offense that would be a violent offense, as defined in 46-23-502, if committed by an adult, to register and remain registered as a violent offender pursuant to Title 46, chapter 23, part 5. The youth court shall retain jurisdiction in a disposition under this subsection to ensure registration compliance.

(d) in the case of a delinquent youth who has been adjudicated for a sexual offense, as defined in 46-23-502, the youth is exempt from the duty to register as a sexual offender pursuant to Title 46, chapter 23, part 5, unless the court finds that:

(i) the youth has previously been found to have committed or been adjudicated for a sexual offense, as defined in 46-23-502; or

(ii) registration is necessary for protection of the public and that registration is in the public's best interest;

(e) in the case of a delinquent youth who is determined by the court to be a serious juvenile offender, the judge may specify that the youth be placed in a ~~state youth~~ correctional facility, subject to the provisions of subsection (2), if the judge finds that the placement is necessary for the protection of the public. The court may order the department to notify the court within 5 working days before the proposed release of a youth from a ~~youth~~ correctional facility. Once a youth is committed to the department for placement in a ~~state youth~~ correctional facility, the department is responsible for determining an appropriate date of release or an

alternative placement.

(f) impose a fine as authorized by law if the violation alleged would constitute a criminal offense if committed by an adult.

(2) If a youth has been adjudicated for a sexual offense, as defined in 46-23-502, the youth court shall:

(a) prior to disposition, order a psychosexual evaluation that must comply with the provisions of 46-18-111;

(b) designate the youth's risk level pursuant to 46-23-509;

(c) require completion of sexual offender treatment; and

(d) for a youth designated under this section and 46-23-509 as a level 3 offender, impose on the youth those restrictions required for adult offenders by 46-18-255(2) unless the youth is approved by the youth court or the department for placement in a home, program, or facility for delinquent youth. Restrictions imposed pursuant to this subsection (2)(d) terminate when the jurisdiction of the youth court terminates pursuant to 41-5-205 unless those restrictions are terminated sooner by an order of the court. However, if a youth's case is transferred to district court pursuant to 41-5-203, 41-5-206, 41-5-208, or 41-5-1605, any remaining part of the restriction imposed pursuant to this subsection (2)(d) is transferred to the jurisdiction of the district court and the supervision of the offender is transferred to the department.

(3) For a youth designated under this section and 46-23-509 as a level 3 offender, the youth court if the youth is under the youth court's jurisdiction or the department if the youth is under the department's jurisdiction shall notify in writing the superintendent of the school district in which the youth is enrolled of the adjudication, any terms of probation or conditional release, and the facts of the offense for which the youth was adjudicated, except the name of the victim, and provide a copy of the court's disposition order to the superintendent.

(4) The court may not order a local government entity to pay for care, treatment, intervention, or placement. A court may not order a local government entity to pay for evaluation and in-state transportation of a youth, except as provided in 52-5-109.

(5) The court may not order a state government entity to pay for care, treatment, intervention, placement, or evaluation that results in a deficit in the annual allocation established for that district under 41-5-

130 without approval from the office of court administrator.

(6) The duration of registration for a youth who is required to register as a sexual or violent offender must be as provided in 46-23-506, except that the court may, based on specific findings of fact, order a lesser duration of registration."

Section 17. Section 41-5-1522, MCA, is amended to read:

"**41-5-1522. Commitment to department -- restrictions on placement.** When a youth is committed to the department, the department shall determine the appropriate placement and rehabilitation program for the youth while the youth is in a correctional facility or other program operated by or under contract with the department after considering the recommendations made by the youth placement committee if a committee has been established as provided for in 41-5-121. Placement is subject to the following limitations:

(1) A youth may not be held in a ~~state youth~~ correctional facility for a period of time in excess of the maximum period of imprisonment that could be imposed on an adult convicted of the offense or offenses that brought the youth under the jurisdiction of the youth court.

(2) A youth may not be placed in or transferred to a ~~state adult~~ correctional facility ~~or other facility used for the execution of sentences of adults convicted of crimes~~ that does not provide sight and sound separation from adult offenders as required in 28 CFR 115.14.

(3) The department may not place a youth in need of intervention, a youth adjudicated delinquent for commission of an act that would not be an offense if committed by an adult, or a youth who violates a consent adjustment in a ~~state youth~~ correctional facility."

Section 18. Section 41-5-1523, MCA, is amended to read:

"**41-5-1523. Commitment to department or youth court -- supervision.** (1) A youth placed in a ~~state youth~~ correctional facility or other facility or program operated by or under contract with the department is under the control of the department until the youth is discharged, transferred, or placed on conditional release by the department. Before a youth is placed on conditional release, a conditional release agreement must be developed and signed as provided in 52-5-126.

(2) A youth who is placed on conditional release must be supervised by a juvenile probation officer of

the youth court.

(3) A youth placed in any private, out-of-home facility by the youth court must be supervised by a juvenile probation officer of the youth court.

(4) Responsibilities of the juvenile probation officer relating to placement of the youth include but are not limited to:

(a) if a youth placement committee has been established as provided for in 41-5-121, submitting information and documentation necessary for the committee that is making the placement recommendation to determine an appropriate placement for the youth;

(b) securing approval for payment of special education costs from the youth's school district of residence or the office of public instruction, as required in Title 20, chapter 7, part 4;

(c) submitting an application to a facility in which the youth may be placed; and

(d) managing the youth's case while in a private, out-of-home facility and upon release until supervision is terminated by the youth court."

Section 19. Section 41-5-2002, MCA, is amended to read:

"**41-5-2002. Purpose.** The purposes of this part are to:

(1) provide an alternate method of funding juvenile out-of-home placements, programs, and services;

(2) increase the ability of youth courts to respond to juvenile delinquency through early intervention and expanded community alternatives;

(3) enhance the ability of youth courts to control costs;

(4) enhance community safety, hold youth accountable, and promote the competency development of youth;

(5) use local resources for the placement of troubled youth, when appropriate and available;

(6) reduce placements in out-of-state residential facilities and programs; and

(7) use ~~state youth~~ correctional facilities when appropriate."

Section 20. Section 41-5-2005, MCA, is amended to read:

"**41-5-2005. Youth placement committee recommendation to youth court judge -- acceptance or**

rejection. (1) (a) Prior to commitment of a youth to the legal custody of the youth court under 41-5-1512 or 41-5-1513, a youth placement committee may be established as provided for in 41-5-121. Except as provided in subsection (1)(b), the committee, if established, shall submit in writing to the youth court judge its primary and alternative recommendations for placement of the youth.

(b) An alternative recommendation is unnecessary if the committee's recommendation is placement in a ~~youth~~ correctional facility.

(2) The committee shall first consider placement of the youth in a community-based facility or program and shall give priority to placement of the youth in a facility or program located in the state of Montana.

(3) If in-state alternatives for placement of the youth are inappropriate, the committee may recommend an out-of-state placement. The committee shall state in its recommendation the reasons why in-state services are not appropriate.

(4) The primary and alternative recommendations of the youth placement committee must be for similar facilities or programs. The youth court may require a youth placement committee to reevaluate a youth if the recommended placements are dissimilar.

(5) If the youth court rejects both of the committee's recommendations, it shall promptly notify the committee in writing of the reasons for rejecting the recommendations and shall make an appropriate placement for the youth.

(6) The youth court may not order a placement or change of placement that results in a deficit in the annual allocation established for that district under 41-5-130 without approval from the office of court administrator.

(7) The youth court shall evaluate the cost of the placement or change of placement and ensure that the placement or change of placement will not overspend the annual allocation provided by the office of court administrator under 41-5-130."

Section 21. Section 45-5-214, MCA, is amended to read:

"**45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if the person purposely causes one of the person's bodily fluids to make physical contact with:

(a) a law enforcement officer, a staff person of a correctional or detention facility, or a health care

provider, as defined in 50-4-504, including a health care provider performing emergency services, while the health care provider is acting in the course and scope of the health care provider's profession and occupation:

(i) during or after an arrest for a criminal offense;

(ii) while the person is incarcerated in or being transported to or from a state prison, a county, city, or regional jail or detention facility, or a health care facility; or

(iii) if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, ~~state youth~~ correctional facility as defined in 41-5-103, health care facility, or shelter care facility; or

(b) an emergency responder.

(2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to exceed $1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

(3) The youth court has jurisdiction of any violation of this section by a minor.

(4) As used in this section, the following definitions apply:

(a) "Bodily fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

(b) "Emergency responder" means a licensed medical services provider, law enforcement officer, firefighter, volunteer firefighter or officer of a nonprofit volunteer fire company, emergency care provider, emergency nurse, ambulance operator, provider of civil defense services, or any other person who in good faith renders emergency care or assistance at a crime scene or the scene of an emergency or accident."

Section 22. Section 45-7-307, MCA, is amended to read:

"**45-7-307. Transferring illegal articles -- unauthorized communication.** (1) (a) A person commits the offense of transferring illegal articles if the person knowingly or purposely transfers any illegal article or weapon to a person subject to official detention or is transferred any illegal article or weapon by a person subject to official detention.

(b) A person convicted of transferring illegal articles or a weapon shall be:

(i) imprisoned in a state prison for a term not to exceed 20 years, if the item transferred is a weapon;

(ii) imprisoned in a state prison for a term not to exceed 10 years, if the illegal article is a dangerous drug, as defined in 50-32-101; or

(iii) imprisoned in a state prison for a term not to exceed 13 months or be fined an amount not more than $1,500, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a state prison, as defined in 53-30-101~~(3)(c)~~, or be fined an amount not more than $100 or be imprisoned in the county jail for any term not to exceed 10 days, or both, if the illegal article, other than a weapon or dangerous drug, is transferred to or from a person incarcerated in a place other than a state prison.

(c) Subsection (1)(b)(iii) does not apply unless the offender knew or was given sufficient notice so that the offender reasonably should have known that the article conveyed was an illegal article.

(2) (a) A person commits the offense of unauthorized communication if the person knowingly or purposely communicates with a person subject to official detention without the consent of the person in charge of the official detention.

(b) A person convicted of the offense of unauthorized communication shall be fined an amount not to exceed $100 or imprisoned in the county jail for any term not to exceed 10 days, or both."

Section 23. Section 45-8-318, MCA, is amended to read:

"**45-8-318. Possession of deadly weapon by prisoner or youth in facility.** (1) A person commits the offense of possession of a deadly weapon by a prisoner if the person purposely or knowingly possesses or carries or has under the person's custody or control without lawful authority a dirk, dagger, pistol, revolver, slingshot, sword cane, billy, knuckles made of any metal or hard substance, knife, razor not including a safety razor, or other deadly weapon while the person is:

(a) a person committed to a state prison or incarcerated in a county jail, city jail, or regional jail and is:

(i) at a state prison, a state prison farm or ranch, or jail;

(ii) being conveyed to or from a place listed in this subsection (1)(a); or

(iii) under the custody of prison or jail officials, officers, or employees; or

(b) a person in a youth detention facility, secure detention facility, regional detention facility, short-term detention center, ~~state youth~~ correctional facility, or shelter care facility, as those terms are defined in 41-5-103, and is at the facility, being conveyed to or from the facility, or under the custody of the facility officials,

officers, or employees.

(2) A person convicted of the offense of possession of a deadly weapon by a prisoner shall be punished by imprisonment in the state prison for a term not less than 5 years or more than 15 years, by a fine of not more than $50,000, or by both fine and imprisonment.

(3) The youth court has jurisdiction of any violation of subsection (1)(b) unless the charge is filed in district court, in which case the district court has jurisdiction."

Section 24. Section 46-5-112, MCA, is amended to read:

"**46-5-112. Electronic data privacy -- warrant required -- exceptions.** (1) Except as provided in subsection (2), a government entity may not obtain the stored data of an electronic device without a search warrant issued by a court upon a finding of probable cause.

(2) A government entity may obtain the stored data of an electronic device without a search warrant:

(a) with the consent of the owner or authorized user of the electronic device;

(b) in accordance with judicially recognized exceptions to warrant requirements;

(c) if the owner has voluntarily and publicly disclosed the stored data;

(d) if the government entity, in good faith, believes that an emergency involving danger, death, or serious physical injury to a person requires immediate disclosure of communications relating to the emergency;

(e) in order to respond to the user's call for emergency services; or

(f) for any electronic devices found within the confines of ~~an adult or youth~~ a correctional facility.

(3) Nothing in 46-5-111 through 46-5-113 may be construed to limit a government entity's ability to use, maintain, or store information on its own electronic devices or to disseminate information stored on its own electronic devices.

(4) Sections 46-5-111 through 46-5-113 do not apply to motor carrier safety or hazardous materials programs implemented by the department of transportation for purposes of complying with federal motor carrier safety regulations."

Section 25. Section 46-23-102, MCA, is amended to read:

"**46-23-102. Cases of juveniles excluded.** The provisions of parts 1, 2, 3, and 10 of this chapter do

not apply to probation in the youth courts or to conditional release from ~~state youth~~ correctional facilities."

Section 26. Section 46-23-201, MCA, is amended to read:

"**46-23-201. Prisoners eligible for nonmedical parole.** (1) Subject to the restrictions contained in subsections (2) through (4) and the parole criteria in 46-23-208, the board may release on nonmedical parole by appropriate order any person who is:

(a) confined in a state prison;

(b) sentenced to the state prison and confined in a prerelease center;

(c) sentenced to prison as an adult pursuant to 41-5-206 and confined in a ~~youth~~ correctional facility as defined in 41-5-103;

(d) sentenced to be committed to the custody of the director of the department of public health and human services as provided in 46-14-312 and confined in the Montana state hospital, the Montana developmental center, or the Montana mental health nursing care center.

(2) Persons under sentence of death, persons sentenced to the department who have been placed by the department in a state prison temporarily for assessment or sanctioning, and persons serving sentences imposed under 46-18-202(2) or 46-18-219 may not be granted a nonmedical parole.

(3) A prisoner serving a time sentence may not be paroled under this section until the prisoner has served at least one-fourth of the prisoner's full term.

(4) A prisoner serving a life sentence may not be paroled under this section until the prisoner has served 30 years.

(5) If a hearing panel denies parole, it may order that the prisoner serve up to 6 years if the prisoner is confined for a sexual or violent offense, as defined in 46-23-502, or up to 1 year if the prisoner is confined for any other offense before a hearing panel conducts another hearing or review."

Section 27. Section 50-5-101, MCA, is amended to read:

"**50-5-101. Definitions.** As used in parts 1 through 3 of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Accreditation" means a designation of approval.

(2) "Accreditation association for ambulatory health care" means the organization nationally recognized by that name that surveys outpatient centers for surgical services upon their requests and grants accreditation status to the outpatient centers for surgical services that it finds meet its standards and requirements.

(3) "Activities of daily living" means tasks usually performed in the course of a normal day in a resident's life that include eating, walking, mobility, dressing, grooming, bathing, toileting, and transferring.

(4) "Adult day-care center" means a facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

(5) (a) "Adult foster care home" means a private home or other facility that offers, except as provided in 50-5-216, only light personal care or custodial care to four or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager.

(b) As used in this subsection (5), the following definitions apply:

(i) "Aged person" means a person as defined by department rule as aged.

(ii) "Custodial care" means providing a sheltered, family-type setting for an aged person or disabled adult so as to provide for the person's basic needs of food and shelter and to ensure that a specific person is available to meet those basic needs.

(iii) "Disabled adult" means a person who is 18 years of age or older and who is defined by department rule as disabled.

(iv) (A) "Light personal care" means assisting the aged person or disabled adult in accomplishing such personal hygiene tasks as bathing, dressing, and hair grooming and supervision of prescriptive medicine administration.

(B) The term does not include the administration of prescriptive medications.

(6) "Affected person" means an applicant for a certificate of need, a health care facility located in the geographic area affected by the application, an agency that establishes rates for health care facilities, or a third-party payer who reimburses health care facilities in the area affected by the proposal.

(7) "Assisted living facility" means a congregate residential setting that provides or coordinates

personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services.

(8) "Capital expenditure" means:

(a) an expenditure made by or on behalf of a health care facility that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; or

(b) a lease, donation, or comparable arrangement that would be a capital expenditure if money or any other property of value had changed hands.

(9) "Certificate of need" means a written authorization by the department for a person to proceed with a proposal subject to 50-5-301.

(10) "Chemical dependency facility" means a facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety.

(11) "Clinical laboratory" means a facility for the microbiological, serological, chemical, hematological, radiobioassay, cytological, immunohematological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of a disease or assessment of a medical condition.

(12) "College of American pathologists" means the organization nationally recognized by that name that surveys clinical laboratories upon their requests and accredits clinical laboratories that it finds meet its standards and requirements.

(13) "Commission on accreditation of rehabilitation facilities" means the organization nationally recognized by that name that surveys rehabilitation facilities upon their requests and grants accreditation status to a rehabilitation facility that it finds meets its standards and requirements.

(14) "Comparative review" means a joint review of two or more certificate of need applications that are determined by the department to be competitive in that the granting of a certificate of need to one of the applicants would substantially prejudice the department's review of the other applications.

(15) "Congregate" means the provision of group services designed especially for elderly or disabled persons who require supportive services and housing.

(16) "Construction" means the physical erection of a health care facility and any stage of the physical erection, including groundbreaking, or remodeling, replacement, or renovation of an existing health care facility.

(17) "Council on accreditation" means the organization nationally recognized by that name that surveys behavioral treatment programs, chemical dependency treatment programs, residential treatment facilities, and mental health centers upon their requests and grants accreditation status to programs and facilities that it finds meet its standards and requirements.

(18) "Critical access hospital" means a facility that is located in a rural area, as defined in 42 U.S.C. 1395ww(d)(2)(D), and that has been designated by the department as a critical access hospital pursuant to 50-5-233.

(19) "Department" means the department of public health and human services provided for in 2-15-2201.

(20) "DNV healthcare, inc." means the company nationally recognized by that name that surveys hospitals upon their requests and grants accreditation status to a hospital that it finds meets its standards and requirements.

(21) "Eating disorder center" means a facility that specializes in the treatment of eating disorders.

(22) "End-stage renal dialysis facility" means a facility that specializes in the treatment of kidney diseases and includes freestanding hemodialysis units.

(23) "Federal acts" means federal statutes for the construction of health care facilities.

(24) "Governmental unit" means the state, a state agency, a county, municipality, or political subdivision of the state, or an agency of a political subdivision.

(25) "Healthcare facilities accreditation program" means the program nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements.

(26) (a) "Health care facility" or "facility" means all or a portion of an institution, building, or agency, private or public, excluding federal facilities, whether organized for profit or not, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any individual. The term includes chemical dependency facilities, critical access hospitals, eating disorder centers, end-stage renal dialysis facilities, home health agencies, home infusion therapy agencies, hospices, hospitals,

infirmaries, long-term care facilities, intermediate care facilities for the developmentally disabled, medical assistance facilities, mental health centers, outpatient centers for primary care, outpatient centers for surgical services, rehabilitation facilities, residential care facilities, and residential treatment facilities.

(b) The term does not include offices of private physicians, dentists, or other physical or mental health care workers regulated under Title 37, including licensed addiction counselors.

(27) "Home health agency" means a public agency or private organization or subdivision of the agency or organization that is engaged in providing home health services to individuals in the places where they live. Home health services must include the services of a licensed registered nurse and at least one other therapeutic service and may include additional support services.

(28) "Home infusion therapy agency" means a health care facility that provides home infusion therapy services.

(29) "Home infusion therapy services" means the preparation, administration, or furnishing of parenteral medications or parenteral or enteral nutritional services to an individual in that individual's residence. The services include an educational component for the patient, the patient's caregiver, or the patient's family member.

(30) "Hospice" means a coordinated program of home and inpatient health care that provides or coordinates palliative and supportive care to meet the needs of a terminally ill patient and the patient's family arising out of physical, psychological, spiritual, social, and economic stresses experienced during the final stages of illness and dying and that includes formal bereavement programs as an essential component. The term includes:

(a) an inpatient hospice facility, which is a facility managed directly by a medicare-certified hospice that meets all medicare certification regulations for freestanding inpatient hospice facilities; and

(b) a residential hospice facility, which is a facility managed directly by a licensed hospice program that can house three or more hospice patients.

(31) (a) "Hospital" means a facility providing, by or under the supervision of licensed physicians, services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals. Except as otherwise provided by law, services provided must include medical personnel available to provide emergency care onsite 24 hours a day and may include any other service allowed by state licensing authority.

A hospital has an organized medical staff that is on call and available within 20 minutes, 24 hours a day, 7 days a week, and provides 24-hour nursing care by licensed registered nurses. The term includes:

(i) hospitals specializing in providing health services for psychiatric, developmentally disabled, and tubercular patients; and

(ii) specialty hospitals.

(b) The term does not include critical access hospitals.

(c) The emergency care requirement for a hospital that specializes in providing health services for psychiatric, developmentally disabled, or tubercular patients is satisfied if the emergency care is provided within the scope of the specialized services provided by the hospital and by providing 24-hour nursing care by licensed registered nurses.

(32) "Infirmary" means a facility located in a university, college, government institution, or industry for the treatment of the sick or injured, with the following subdefinitions:

(a) an "infirmary--A" provides outpatient and inpatient care;

(b) an "infirmary--B" provides outpatient care only.

(33) (a) "Intermediate care facility for the developmentally disabled" means a facility or part of a facility that provides intermediate developmental disability care for two or more persons.

(b) The term does not include community homes for persons with developmental disabilities that are licensed under 53-20-305 or community homes for persons with severe disabilities that are licensed under 52-4-203.

(34) "Intermediate developmental disability care" means the provision of intermediate nursing care services, health-related services, and social services for persons with a developmental disability, as defined in 53-20-102, or for persons with related problems.

(35) "Intermediate nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed nurse to patients not requiring 24-hour nursing care.

(36) "Licensed health care professional" means a licensed physician, physician assistant, advanced practice registered nurse, or registered nurse who is practicing within the scope of the license issued by the department of labor and industry.

(37) (a) "Long-term care facility" means a facility or part of a facility that provides skilled nursing care,

residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care.

(b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the authority of the department of corrections.

(38) "Medical assistance facility" means a facility that meets both of the following:

(a) provides inpatient care to ill or injured individuals before their transportation to a hospital or that provides inpatient medical care to individuals needing that care for a period of no longer than 96 hours unless a longer period is required because transfer to a hospital is precluded because of inclement weather or emergency conditions. The department or its designee may, upon request, waive the 96-hour restriction retroactively and on a case-by-case basis if the individual's attending physician, physician assistant, or nurse practitioner determines that the transfer is medically inappropriate and would jeopardize the health and safety of the individual.

(b) either is located in a county with fewer than six residents a square mile or is located more than 35 road miles from the nearest hospital.

(39) "Mental health center" means a facility providing services for the prevention or diagnosis of mental illness, the care and treatment of mentally ill patients, the rehabilitation of mentally ill individuals, or any combination of these services.

(40) "Nonprofit health care facility" means a health care facility owned or operated by one or more nonprofit corporations or associations.

(41) "Offer" means the representation by a health care facility that it can provide specific health services.

(42) (a) "Outdoor behavioral program" means a program that provides treatment, rehabilitation, and prevention for behavioral problems that endanger the health, interpersonal relationships, or educational functions of a youth and that:

(i) serves either adjudicated or nonadjudicated youth;

(ii) charges a fee for its services; and

(iii) provides all or part of its services in the outdoors.

(b) "Outdoor behavioral program" does not include recreational programs such as boy scouts, girl scouts, 4-H clubs, or other similar organizations.

(43) "Outpatient center for primary care" means a facility that provides, under the direction of a licensed physician, either diagnosis or treatment, or both, to ambulatory patients and that is not an outpatient center for surgical services.

(44) "Outpatient center for surgical services" means a clinic, infirmary, or other institution or organization that is specifically designed and operated to provide surgical services to patients not requiring hospitalization and that may include recovery care beds.

(45) "Patient" means an individual obtaining services, including skilled nursing care, from a health care facility.

(46) "Person" means an individual, firm, partnership, association, organization, agency, institution, corporation, trust, estate, or governmental unit, whether organized for profit or not.

(47) "Personal care" means the provision of services and care for residents who need some assistance in performing the activities of daily living.

(48) "Practitioner" means an individual licensed by the department of labor and industry who has assessment, admission, and prescription authority.

(49) "Recovery care bed" means, except as provided in 50-5-235, a bed occupied for less than 24 hours by a patient recovering from surgery or other treatment.

(50) "Rehabilitation facility" means a facility that is operated for the primary purpose of assisting in the rehabilitation of disabled individuals by providing comprehensive medical evaluations and services, psychological and social services, or vocational evaluation and training or any combination of these services and in which the major portion of the services is furnished within the facility.

(51) "Resident" means an individual who is in a long-term care facility or in a residential care facility.

(52) "Residential care facility" means an adult day-care center, an adult foster care home, an assisted living facility, or a retirement home.

(53) "Residential psychiatric care" means active psychiatric treatment provided in a residential

treatment facility to psychiatrically impaired individuals with persistent patterns of emotional, psychological, or behavioral dysfunction of such severity as to require 24-hour supervised care to adequately treat or remedy the individual's condition. Residential psychiatric care must be individualized and designed to achieve the patient's discharge to less restrictive levels of care at the earliest possible time.

(54) "Residential treatment facility" means a facility operated for the primary purpose of providing residential psychiatric care to individuals under 21 years of age.

(55) "Retirement home" means a building or buildings in which separate living accommodations are rented or leased to individuals who use those accommodations as their primary residence.

(56) "Skilled nursing care" means the provision of nursing care services, health-related services, and social services under the supervision of a licensed registered nurse on a 24-hour basis.

(57) (a) "Specialty hospital" means a subclass of hospital that is exclusively engaged in the diagnosis, care, or treatment of one or more of the following categories:

(i) patients with a cardiac condition;

(ii) patients with an orthopedic condition;

(iii) patients undergoing a surgical procedure; or

(iv) patients treated for cancer-related diseases and receiving oncology services.

(b) For purposes of this subsection (57), a specialty hospital may provide other services for medical diagnosis, treatment, rehabilitation, and care of injured, disabled, or sick individuals as otherwise provided by law if the care encompasses 35% or less of the hospital services.

(c) The term "specialty hospital" does not include:

(i) psychiatric hospitals;

(ii) rehabilitation hospitals;

(iii) children's hospitals;

(iv) long-term care hospitals; or

(v) critical access hospitals.

(58) "State health care facilities plan" means the plan prepared by the department to project the need for health care facilities within Montana and approved by the governor and a statewide health coordinating council appointed by the director of the department.

(59) "Swing bed" means a bed approved pursuant to 42 U.S.C. 1395tt to be used to provide either acute care or extended skilled nursing care to a patient.

(60) "The joint commission" means the organization nationally recognized by that name that surveys health care facilities upon their requests and grants accreditation status to a health care facility that it finds meets its standards and requirements."

Section 28. Section 50-5-301, MCA, is amended to read:

"**50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted an application for and is the holder of a certificate of need granted by the department, the person may not initiate any of the following:

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that exceeds $1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys, designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which an expenditure is made must be included in determining if the expenditure exceeds $1.5 million.

(b) a change in the bed capacity of a health care facility through an increase in the number of beds or a relocation of beds from one health care facility or site to another, unless:

(i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated during the 2 years prior to the date on which the letter of intent for the proposal is received;

(ii) a letter of intent is submitted to the department; and

(iii) the department determines that the proposal will not significantly increase the cost of care provided or exceed the bed need projected in the state health care facilities plan;

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of $150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or

more of an existing health care facility unless:

(i) the person submits the letter of intent required by 50-5-302(2); and

(ii) the department finds that the acquisition will not significantly increase the cost of care provided or increase bed capacity;

(e) the construction, development, or other establishment of a health care facility that is being replaced or that did not previously exist, by any person, including another type of health care facility;

(f) the expansion of the geographical service area of a home health agency;

(g) the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101;

(h) the provision by a hospital of services for home health care, long-term care, or inpatient chemical dependency treatment; or

(i) the construction, development, or other establishment of a facility for ambulatory surgical care through an outpatient center for surgical services in a county with a population of 20,000 or less according to the most recent federal census or estimate.

(2) For purposes of this part, the following definitions apply:

(a) "Health care facility" or "facility" means a nonfederal home health agency, a long-term care facility, or an inpatient chemical dependency facility. The term does not include:

(i) a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection (1)(h);

(ii) an office of a private physician, dentist, or other physical or mental health care professionals, including licensed addiction counselors; or

(iii) a rehabilitation facility or an outpatient center for surgical services.

(b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

(ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe

disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals not requiring institutional health care; or ~~juvenile and adult~~ correctional facilities operating under the authority of the department of corrections.

(3) This section may not be construed to require a health care facility to obtain a certificate of need for a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a health care facility."

Section 29. Section 52-2-302, MCA, is amended to read:

"**52-2-302. Definitions.** The following definitions apply to this part:

(1) (a) "High-risk child with multiagency service needs" means a child under 18 years of age who is seriously emotionally disturbed, who is placed or who imminently may be placed in an out-of-home setting, and who has a need for collaboration from more than one state agency in order to address the child's needs.

(b) The term does not include a child incarcerated in a ~~state youth~~ correctional facility as defined in 41-5-103.

(2) "Least restrictive and most appropriate setting" means a setting in which a high-risk child with multiagency service needs is served:

(a) within the child's family or community; or

(b) outside the child's family or community where the needed services are not available within the child's family or community and where the setting is determined to be the most appropriate alternative setting based on:

(i) the safety of the child and others;

(ii) ethnic and cultural norms;

(iii) preservation of the family;

(iv) services needed by the child and the family;

(v) the geographic proximity to the child's family and community if proximity is important to the child's treatment.

(3) "Provider" means an agency of state or local government, a person, or a program authorized to

provide treatment or services to a high-risk child with multiagency service needs who is suffering from mental, behavioral, or emotional disorders.

(4) "Services" has the meaning as defined in 52-2-202.

(5) "System of care" means an integrated service support system that:

(a) emphasizes the strengths of the child and the child's family;

(b) is comprehensive and individualized; and

(c) provides for:

(i) culturally competent and developmentally appropriate services in the least restrictive and most appropriate setting;

(ii) full involvement of families and providers as partners;

(iii) interagency collaboration; and

(iv) unified care and treatment planning at the individual child level.

(6) "Wraparound philosophy of care" means a planning process that is designed to address the needs of a child and the child's family and that:

(a) empowers the family to take the lead in making decisions affecting the planning for support systems and services;

(b) reflects the family's values, preferences, culture, strengths, and needs;

(c) emphasizes community-based natural and informal support systems;

(d) involves collaboration among members of a team that is developed with involvement of the family and that includes agencies, providers, and others who offer support to the child and family;

(e) provides services in the least restrictive and most accessible setting possible; and

(f) contains measurable outcomes that are regularly reviewed by the team and adjusted as necessary."

Section 30. Section 52-5-101, MCA, is amended to read:

"**52-5-101. Establishment of ~~state youth~~ correctional facilities -- prohibitions -- definition.** (1) The department of corrections, within the annual or biennial budgetary appropriation, may establish, maintain, and operate correctional facilities to ~~properly~~ provide custody, assessment, care, supervision, treatment,

education, rehabilitation, and work and skill development ~~for~~ of youth in need of these services who are~~. The youth must be~~ at least 10 years of age ~~or older~~ and ~~under~~ less than 18 years of age. ~~The facilities include but are not limited to the Pine Hills youth correctional facility in Miles City.~~

(2) A youth alleged or found to be a youth in need of intervention may not be placed in a ~~state youth~~ correctional facility ~~as defined in 41-5-103~~.

(3) When a correctional facility previously used as a secure residential facility for youth is repurposed by the department to provide for the custody, treatment, training, and rehabilitation of other correctional populations, serving the needs of youth populations must have priority if youth population increases sufficiently to justify the department reverting to the previous use of the facility."

Section 31. Section 52-5-108, MCA, is amended to read:

"**52-5-108. Medical examination before admission -- records required to accompany youth committed.** (1) Before a youth is admitted for any purpose or for any length of time to the Pine Hills ~~youth~~ correctional facility or another facility under an order of commitment to the department of corrections, the youth must be examined by a licensed physician assistant, by an advanced practice registered nurse, or by a licensed physician. A youth committed to the Pine Hills ~~youth~~ correctional facility or the department must be accompanied by the order of commitment, a medical examination report, an adequate social history, and any school records.

(2) The medical examination required under this section must be a current, complete physical examination of the youth."

Section 32. Section 52-5-109, MCA, is amended to read:

"**52-5-109. Transportation costs -- arrangement for transportation.** (1) Prior to adjudication:

(a) for a youth placed in a facility, other than a ~~state youth~~ correctional facility or a detention facility, the judicial district of the youth court to which the youth has been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs incurred while the youth is in the facility. The district shall pay these costs from its annual allocation provided for in 41-5-130.

(b) for a youth detained in a detention facility, the county of the youth court to which the youth has

been referred shall pay the cost for transporting the youth to the facility and for any other transportation costs while the youth is in the facility.

(2) After adjudication:

(a) for a youth placed in a nonsecure facility within or outside the state, the judicial district of the youth court in which the youth was adjudicated shall pay the costs for transporting the youth to and from the facility from its annual allocation established under 41-5-130;

(b) for a youth committed to the department of corrections for placement in an in-state ~~youth~~ correctional facility or returned to the department for violation of the terms and conditions of the youth's conditional release agreement, the county of the youth court in which the youth was adjudicated shall pay the cost for transporting the youth to the facility. The department shall pay the cost for transporting the youth after the youth is released from the facility or provide other arrangements for transporting the youth.

(c) for a youth placed in an out-of-state correctional facility pursuant to 41-5-355, the department of corrections shall pay the cost for transporting the youth to the facility and the cost for transporting the youth after the youth is released from the facility.

(3) The youth court probation office shall arrange for all transportation to and from an out-of-home placement except when the department of corrections is responsible for transportation costs as provided for in subsections (2)(b) and (2)(c)."

Section 33. Section 52-5-110, MCA, is amended to read:

"**52-5-110. Transfer of child to other facility or institution.** The department of corrections, upon recommendation of the superintendent of a facility, may transfer a child resident in one of its ~~youth~~ correctional facilities to any other facility or institution under the jurisdiction and control of the department or under contract to the department."

Section 34. Section 52-5-111, MCA, is amended to read:

"**52-5-111. Commutation of sentence to state prison facility and transfer of prisoner to ~~youth~~ correctional facility.** (1) Upon the application of a person who has not attained 18 years of age who has been sentenced to a state prison facility or upon the application of the youth's parents or guardian, the governor may,

after consulting with the department of corrections and with the approval of the board of pardons and parole, commute the sentence by committing the person ~~who~~ to the department of corrections for placement in a correctional facility if the person may benefit from programs offered at a ~~youth~~ correctional facility. ~~to the department of corrections~~ Except as provided in subsection (2), the commutation continues in effect until the youth is 18 years of age or until sooner placed or discharged.

(2) If the youth's behavior after being committed to the department of corrections as provided in subsection (1) indicates that the youth is not a proper person to reside at one of the ~~youth~~ correctional facilities, the governor, after consulting with the department of corrections and with the approval of the board of pardons and parole, may revoke the commutation and return the youth to a state prison facility to serve out the youth's unexpired term, and the time spent by the youth at one of the ~~youth~~ correctional facilities or while a refugee from one of the ~~youth~~ correctional facilities ~~is not considered as a part of~~ may not be credited against the youth's original sentence.

(3) ~~Upon~~ Independent of the commutation of sentence procedures provided for in subsections (1) and (2), on recommendation of the warden and with the approval of the department of corrections, a person under 18 years of age who has been sentenced to a state prison facility and who may benefit from programs offered at a ~~youth~~ correctional facility may be transferred to any ~~youth~~ correctional facility under the jurisdiction and control of the department of corrections.

(4) If the youth's behavior after transfer to a ~~youth~~ correctional facility indicates that the youth might be released on parole or that the youth's sentence might be commuted and the youth be discharged from custody, the superintendent of the facility, with the approval of the department of corrections, may make an appropriate recommendation to the board of pardons and parole and the governor, who may in their discretion parole the person or commute the youth's sentence.

(5) If the youth's behavior after transfer to a ~~youth~~ correctional facility indicates that the youth is not a proper person to reside in the facility, upon recommendation of the superintendent and with the approval of the department of corrections, the youth must be returned to a state prison facility to serve out the unexpired term."

Section 35. Section 52-5-112, MCA, is amended to read:

"**52-5-112. University aid to residents of schools.** The department of corrections may, on the

recommendation of the superintendent, authorize a resident of a ~~state youth~~ correctional facility who has completed high school and who is otherwise eligible to receive up to $800 per year toward the resident's expenses incurred in attending a unit of the Montana university system. The money may be used for transportation, clothing, books, board, and room and must be paid in the same manner as other expenses of the school. The board of regents of higher education may waive fees and tuition for these residents pursuant to 20-25-421. No more than eight residents of each ~~state youth~~ correctional facility may receive these benefits each year. The department shall notify the board of regents before August 1 of each year of the residents that it has designated to receive the benefits for the next school year."

Section 36. Section 52-5-113, MCA, is amended to read:

"**52-5-113. Publication of information to facilitate return of youth leaving a ~~state youth~~ correctional facility or program without permission.** The department may publish the name and picture of and the offense and other information relating to a youth who has left a ~~state youth~~ correctional facility or program operated by the department or who is committed to the department and who presents a threat to public safety if the publication is determined by the department to be necessary to facilitate the youth's return and to protect the public."

Section 37. Section 52-5-114, MCA, is amended to read:

"**52-5-114. Penalty for aiding resident in leaving or not returning to ~~youth~~ correctional facility.** (1) A person is guilty of an offense if the person purposely or knowingly:

(a) permits or assists a resident of a ~~youth~~ correctional facility to leave a facility without permission;

(b) permits or assists a resident's failure to return to a ~~youth~~ correctional facility from which the resident had permission to leave;

(c) furnishes or attempts to furnish to a resident a tool, weapon, or other article with the intent of aiding the resident to leave without permission or to not return; or

(d) harbors or conceals a resident who has left without permission.

(2) Upon conviction of a violation of subsection (1), a person shall be punished by imprisonment for a term of not less than 6 months or more than 2 years or by a fine not exceeding $1,000, or both."

Section 38. Section 52-5-120, MCA, is amended to read:

"**52-5-120. Youth industries programs.** The department of corrections may:

(1) establish youth industries programs in state ~~youth~~ correctional facilities that:

(a) assist in the training and rehabilitation of residents who are youth at ~~state youth~~ correctional facilities; and

(b) provide the production or manufacture of products and the rendering of services that may be needed by:

(i) a department or agency of the state of Montana or a unit of local government;

(ii) an agency of the federal government; or

(iii) an office or agency of another state or a political subdivision of another state;

(2) contract with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(3) fix the purchase price for goods and services available under the industries program established in subsection (1)."

Section 39. Section 52-5-121, MCA, is amended to read:

"**52-5-121. Rulemaking authority.** The department of corrections may adopt rules necessary for administration of industries programs authorized in 52-5-120. Rules adopted by the department may include rules regarding:

(1) requirements for participation of youth in industries programs;

(2) the type of training and experience to be provided to youth under these programs;

(3) the type of goods and services to be sold under the industries programs;

(4) contracts with private industry for the sale of goods produced or manufactured at ~~state youth~~ correctional facilities; and

(5) payment of wages to youth working in industries programs."

Section 40. Section 52-5-126, MCA, is amended to read:

"**52-5-126. Conditional release agreement.** (1) At least 30 days before a youth is released by the department of corrections from a ~~state youth~~ correctional facility to the supervision, custody, and control of the youth court, the department, youth, and juvenile probation officer assigned to the youth shall develop a conditional release agreement for the youth.

(2) At least 14 days before the youth is released, the department, youth, and juvenile probation officer shall finalize and sign the conditional release agreement. The agreement must contain a statement advising the youth of the youth's rights under 41-5-1430 and the terms and conditions that may result in a revocation of the youth's conditional release.

(3) A conditional release agreement for a youth released from a ~~state youth~~ correctional facility for commitment to a mental health facility pursuant to Title 53, chapter 21, part 1, must remain in effect until the youth court no longer has custody of the youth."

Section 41. Section 52-5-128, MCA, is amended to read:

"**52-5-128. Detention of youth who violates conditional release or escapes from facility or program.** (1) A juvenile probation officer may detain a youth who allegedly has violated the terms and conditions of the youth's conditional release agreement. A law enforcement officer of the state or a county or a city shall detain a youth who has allegedly violated the terms and conditions of the youth's conditional release agreement upon receipt of a warrant to detain the youth.

(2) The department of corrections may detain a youth who has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the department. A law enforcement officer of the state or a county or a city shall detain a youth upon notice in writing to the officer by the department that the youth has escaped from a ~~state youth~~ correctional facility or program operated by or under contract with the department."

Section 42. Section 53-1-104, MCA, is amended to read:

"**53-1-104. Release of arsonist -- notification of department of justice.** (1) Each of the following institutions, correctional facilities, or other facilities having the charge or custody of a person convicted of arson or of a person acquitted of arson on the ground of mental disease or disorder shall give written notification to

the department of justice when the person is admitted or released by it:

(a) the Montana state hospital;

(b) a state prison;

(c) a Montana ~~youth~~ correctional facility housing youth; or

(d) a county or city detention facility.

(2) The notification must disclose:

(a) the name of the person;

(b) where the person is or will be located; and

(c) the type of fire the person was involved in."

Section 43. Section 53-1-105, MCA, is amended to read:

"**53-1-105. Disposition of contraband in correctional institution.** (1) Cash possessed in excess of the amount allowed by the policy of ~~an adult or youth~~ correctional institution or obtained in violation of a policy may be confiscated and deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund.

(2) The department of corrections shall adopt policies for the disposition of other contraband confiscated from inmates or residents in ~~adult or youth~~ correctional institutions. Receipts from the sale of contraband must be deposited in an inmate or resident welfare fund to be used for the intended purpose of that fund."

Section 44. Section 53-1-107, MCA, is amended to read:

"**53-1-107. (Temporary) Inmate financial transactions and trust account system.** (1) An inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113 until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

(c) The department shall adopt rules to exempt the following inmates from participation in the mandatory inmate savings program under subsection (4)(a):

(i) inmates who are of advanced age;

(ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

(iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an advanced age upon their discharge date;

(iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an advanced age at eligibility; and

(v) inmates who are not eligible for parole and are serving life sentences.

(5) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1).

(Terminates June 30, 2021--sec. 27, Ch. 285, L. 2015; sec. 1, Ch. 292, L. 2015.)

53-1-107. (Effective July 1, 2021) Inmate financial transactions and trust account system. (1) An inmate of a state prison, as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. The department may charge an inmate a minimum fee, not to exceed $2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use a portion of the funds in an inmate's account to:

(a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;

(b) satisfy court-ordered child support;

(c) satisfy court-ordered fines, fees, or costs;

(d) pay for the inmate's medical and dental expenses and costs of incarceration; and

(e) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

(3) (a) Money taken under subsection (2) for the payment of restitution must be paid in the following

order:

(i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;

(ii) to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title 53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) If there is a balance of money in the inmate's account after payments under subsection (2), the department may allow the balance to accumulate in a savings subaccount for the inmate.

(4) (a) The department shall adopt rules to set a percentage of earnings not to exceed 25% that an inmate worker is required to save in a savings subaccount.

(b) The rules must include that, upon release of an inmate from a state prison, the department shall dispense money directly from the subaccount to the former inmate, the inmate's landlord, or other approved recipients, including service providers.

(c) The department shall adopt rules to exempt the following inmates from participation in the mandatory inmate savings program under subsection (4)(a):

(i) inmates who are of advanced age;

(ii) inmates who have a parole eligibility date that puts them at an advanced age at eligibility;

(iii) inmates who do not have parole eligibility and are serving a long sentence that puts them at an advanced age upon their discharge date;

(iv) inmates who are serving a life sentence but have a parole eligibility date that puts them at an advanced age at eligibility; and

(v) inmates who are not eligible for parole and are serving life sentences.

(5) The department shall adopt rules establishing the prison inmate trust account system and criteria for the use of funds under this section. The rules must contain clear guidelines regarding the use of funds that ensure payment under subsection (2) and that inhibit an inmate's ability to deal in contraband or illegal acts within or outside the state prison.

(6) An inmate is responsible for the inmate's medical and dental expenses and is obligated to repay the department for reasonable costs incurred by the department for the inmate's medical and dental expenses. The department may investigate, identify, take in any manner allowed by law for the satisfaction of a judgment, and use to pay the inmate's medical and dental expenses any assets of the inmate or any income of the inmate from sources outside the state prison that is not deposited in the account provided for in subsection (1)."

Section 45. Section 53-1-109, MCA, is amended to read:

"**53-1-109. Facility resident and prison inmate welfare account.** (1) There is an account in the state special revenue fund. The net proceeds from Pine Hills ~~youth~~ correctional facility resident and state prison inmate canteen purchases and resident or inmate telephone use, cash proceeds from the disposition of confiscated contraband, and any public money held for the needs of residents or inmates and their families and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107 may not be deposited in the account established in this subsection.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of corrections, which may allocate the money referred to in subsection (1) to the Pine Hills ~~youth~~ correctional facility and state prisons in proportion to the amount that each facility contributed to the fund. The superintendent of the Pine Hills ~~youth~~ correctional facility and the administrator of each state prison shall consult with the residents and inmates in the superintendent's or administrator's respective facility about the use of the money allocated to the Pine Hills ~~youth~~ correctional facility or the state prison and may use the money for the needs of that facility's residents or inmates and their families.

(3) For purposes of this section, "state prison" has the meaning provided in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4)."

Section 46. Section 53-1-201, MCA, is amended to read:

"**53-1-201. Purpose of department of corrections.** The department of corrections shall use at maximum efficiency the resources of state government in a coordinated effort to:

(1) develop and maintain comprehensive services and programs in the field of adult and youth corrections; and

(2) provide for the custody, assessment, care, supervision, treatment, education, rehabilitation, and work and skill development of ~~youth alleged to be youth in need of intervention or~~ formerly adjudicated delinquent youth who are referred or committed to the department."

Section 47. Section 53-1-202, MCA, is amended to read:

"**53-1-202. Department of corrections.** (1) Adult and youth correctional services are included in the department of corrections to carry out the purposes of the department.

(2) Adult corrections services consist of the following correctional facilities or programs:

(a) ~~the prisons listed~~a state prison as defined in 53-30-101;

(b) appropriate community-based programs for the placement, supervision, and rehabilitation of adult felons who meet the criteria developed by the department for placement:

(i) in prerelease centers;

(ii) under intensive supervision;

(iii) under parole or probation pursuant to Title 46, chapter 23, part 2; or

(iv) in other appropriate programs; and

(c) the Montana correctional enterprises prison industries training program authorized by 53-30-131.

(3) Youth correctional services consist of the following correctional facilities or programs to provide for custody, supervision, training, education, and rehabilitation of delinquent youth and youth in need of intervention pursuant to Title 52, chapter 5:

(a) Pine Hills ~~youth~~ correctional facility or other ~~state youth~~ correctional facility as defined in 41-5-103; and

(b) any other facility or program under contract with the department that provides custody and services for delinquent youth.

~~(4) A state institution or correctional facility may not be moved, discontinued, or abandoned without the consent of the legislature.~~

(4) A STATE INSTITUTION OR CORRECTIONAL FACILITY MAY NOT BE MOVED, DISCONTINUED, OR ABANDONED WITHOUT THE CONSENT OF THE LEGISLATURE."

Section 48. Section 53-1-203, MCA, is amended to read:

"**53-1-203. Powers and duties of department of corrections.** (1) The department of corrections shall:

(a) subject to subsection (6), adopt rules necessary:

(i) for the siting, establishment, and expansion of prerelease centers;

(ii) for the expansion of treatment facilities or programs previously established by contract through a competitive procurement process;

(iii) for the establishment and maintenance of residential methamphetamine treatment programs; and

(iv) for the admission, custody, transfer, and release of persons in department programs except as otherwise provided by law;

(b) subject to the functions of the department of administration, lease or purchase lands for use by correctional facilities and classify those lands to determine those that may be most profitably used for agricultural purposes, taking into consideration the needs of all correctional facilities for the food products that can be grown or produced on the lands and the relative value of agricultural programs in the treatment or rehabilitation of the persons confined in correctional facilities;

(c) contract with private, nonprofit Montana corporations or, pursuant to the Montana Community Corrections Act, with community corrections facilities or programs or local or tribal governments to establish and maintain:

(i) prerelease centers for purposes of preparing inmates of a Montana prison who are approaching parole eligibility or discharge for release into the community, providing an alternative placement for offenders who have violated parole or probation, and providing a sentencing option for felony offenders pursuant to 46-18-201. The centers shall provide a less restrictive environment than the prison while maintaining adequate security. The centers must be operated in coordination with other department correctional programs. This subsection does not affect the department's authority to operate and maintain prerelease centers.

(ii) residential methamphetamine treatment programs for the purpose of alternative sentencing as provided for in 46-18-201 or 46-18-202 and any other sections relating to alternative sentences for persons convicted of possession of methamphetamine. The department shall issue a request for proposals using a competitive process and shall follow the applicable contract and procurement procedures in Title 18.

(d) use the staff and services of other state agencies and units of the Montana university system, within their respective statutory functions, to carry out its functions under this title;

(e) propose programs to the legislature to meet the projected long-range needs of corrections, including programs and facilities for the custody, supervision, treatment, parole, and skill development of persons placed in correctional facilities or programs;

(f) encourage the establishment of programs at the local and state level for the rehabilitation and education of felony offenders;

(g) encourage efforts within the department and at the local level that would develop housing options and resource materials related to housing for individuals who are released from the Montana state prison or community corrections programs;

(h) maintain data on the number of individuals who are discharged from the adult correction services listed in 53-1-202 into a homeless shelter or a homeless situation;

(i) administer all state and federal funds allocated to the department for delinquent youth, as defined in 41-5-103;

(j) collect and disseminate information relating to youth who are committed to the department for placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

(k) maintain adequate data on placements that it funds in order to keep the legislature properly informed of the specific information, by category, related to delinquent youth in out-of-home care facilities;

(l) provide funding for youth who are committed to the department for placement in a ~~state youth~~ correctional facility as defined in 41-5-103;

(m) administer ~~youth~~ correctional facilities as defined in 41-5-103; and

(n) use to maximum efficiency the resources of state government in a coordinated effort to:

(i) provide for delinquent youth committed to the department; and

(ii) coordinate and apply the principles of modern correctional administration to the facilities and programs administered by the department.

(2) The department may contract with private, nonprofit or for-profit Montana corporations to establish and maintain a residential sexual offender treatment program. If the department intends to contract for that purpose, the department shall adopt rules for the establishment and maintenance of that program.

(3) The department and a private, nonprofit or for-profit Montana corporation may not enter into a contract under subsection (1)(c) or (2) for a period that exceeds 20 years. The provisions of 18-4-313 that limit the term of a contract do not apply to a contract authorized by subsection (1)(c) or (2). Prior to entering into a contract for a period of 20 years, the department shall submit the proposed contract to the legislative audit committee. The legislative audit division shall review the contract and make recommendations or comments to the legislative audit committee. The committee may make recommendations or comments to the department. The department shall respond to the committee, accepting or rejecting the committee recommendations or comments prior to entering into the contract.

(4) The department of corrections may enter into contracts with nonprofit corporations or associations or private organizations to provide substitute care for delinquent youth in state youth correctional facilities.

(5) The department may contract with Montana corporations to operate a day reporting program as an alternate sentencing option as provided in 46-18-201 and 46-18-225 and as a sanction option under 46-23-1015. The department shall adopt by rule the requirements for a day reporting program, including but not limited to requirements for daily check-in, participation in programs to develop life skills, and the monitoring of compliance with any conditions of probation, such as drug testing.

(6) Rules adopted by the department pursuant to subsection (1)(a) may not amend or alter the statutory powers and duties of the state board of pardons and parole. The rules for the siting, establishment, and expansion of prerelease centers must state that the siting is subject to any existing conditions, covenants, restrictions of record, and zoning regulations. The rules must provide that a prerelease center may not be sited at any location without community support. The prerelease siting, establishment, and expansion must be subject to, and the rules must include, a reasonable mechanism for a determination of community support for or objection to the siting of a prerelease center in the area determined to be impacted. The prerelease siting, establishment, and expansion rules must provide for a public hearing conducted pursuant to Title 2, chapter 3.

(7) The department shall ensure that risk and needs assessments drive the department's supervision and correctional practices, including integrating assessment results into supervision contact standards and case management. The department shall regularly validate its risk assessment tool."

Section 49. Section 53-1-207, MCA, is amended to read:

"**53-1-207. Authorization of inmate labor for designated construction projects -- exemptions.** (1) The department of corrections is authorized to use inmate labor for the purpose of construction projects at ~~the Montana~~ a state prison that are authorized by the legislature.

(2) The department of administration shall provide for construction of the projects authorized by this section, which are to be built by the lowest responsible bidder, with contract specifications to allow the use of inmate labor. The percentage of inmate labor must be determined prior to the advertising for bid of the projects through negotiations among the department of corrections, the department of administration, representatives of construction industry employers, and representatives of the building trades."

Section 50. Section 53-30-101, MCA, is amended to read:

"**53-30-101. ~~Location and function of prisons -- definitions~~ State prison -- definition.** ~~(1) The correctional facility at Deer Lodge is the Montana state prison, and its primary function is to provide for the custody, treatment, training, and rehabilitation of adult male criminal offenders.~~

~~(2) The correctional facility located in Billings is the Montana women's prison, and its primary function is to provide for the custody, treatment, training, and rehabilitation of adult female criminal offenders.~~

~~(3)~~ As used in this title, unless the context indicates otherwise, ~~the following definitions apply~~ "state prison" means:

~~(a) "Montana state prison" means the correctional facility located at Deer Lodge.~~

~~(b) "Montana women's prison" or "women's prison" means the correctional facility located at Billings.~~

~~(c) "State prison" means:~~

~~(i) the Montana state prison;~~

~~(ii) the Montana women's prison;~~

(1) a state penal or correctional institution whose primary function is to provide for the custody, treatment, training, and rehabilitation of adult criminal offenders;

~~(iii)~~(2) a state penal or correctional facility portion of a Montana regional correctional facility;

~~(iv)~~(3) a detention center, a state penal facility, or a correctional facility in another jurisdiction detaining Montana inmates ~~from Montana~~ pursuant to 53-30-106;

~~(v)~~(4) a private correctional facility or penal facility licensed by the department of corrections or a

private correctional facility or penal facility portion of a Montana regional correctional facility licensed by the department of corrections; or

~~(vi)~~(5) a combination of the facilities listed in this ~~subsection (3)(c)~~ section."

Section 51. Section 53-30-102, MCA, is amended to read:

"**53-30-102. Qualifications of state prison warden ~~of state prison and warden of women's prison~~.** The warden of ~~the Montana~~ a state prison ~~and the warden of the women's prison~~ must be ~~persons~~ trained through education and experience in directing a custody, treatment, training, or rehabilitation~~, or custodial~~ program in a penal or correctional institution."

Section 52. Section 53-30-141, MCA, is amended to read:

"**53-30-141. Extension of limits of confinement.** (1) The department of corrections may extend the limits of confinement of the ~~Montana~~ state prison in Deer Lodge for purposes of housing outside the prison fence inmates who:

(a) are employed in ranch or agricultural industry programs; and

(b) have demonstrated sufficient reliability and trustworthiness.

(2) Housing units outside the confines of the prison fence may be created by renovation of existing buildings or by the erection of modular-type units and associated facilities on the prison ranch.

(3) For the purpose of expediting the acquisition and construction of housing units authorized in subsection (2) the department of administration may exempt the project from provisions of Montana law relating to the employment of architects, advertising, labor, and wages. The department of administration need not comply with any state bidding requirements that would preclude a sole source purchase."

Section 53. Section 53-30-702, MCA, is amended to read:

"**53-30-702. Definitions.** As used in this part, the following definitions apply:

(1) "Administrative segregation" means a nonpunitive housing status for inmates whose continued presence in the general population may pose a serious threat to life, property, self, staff, other inmates, or the facility's security or orderly operation.

(2) "Administrator" means the official, regardless of local title, who is ultimately responsible for the operation and management of a division, facility, or program.

(3) "Department" means the department of corrections provided for in 2-15-2301.

(4) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, a person who has a record of such an impairment, or a person who is regarded as having such an impairment.

(5) "Disciplinary detention" means a form of separation from the general population in which an inmate who has committed a serious violation of conduct regulations is confined to an individual cell by a disciplinary committee or other authorized group for short periods of time.

(6) "Facility" means a state prison as defined in ~~53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)~~ 53-30-101(1), (2), and (4) or a ~~youth~~ correctional facility pursuant to 52-5-101.

(7) "Mental disorder" means exhibiting impaired emotional, cognitive, or behavioral functioning that interferes seriously with an individual's ability to function adequately except with supportive treatment or services. The individual also must:

(a) currently have or have had within the past year a diagnosed mental disorder; and

(b) currently exhibit significant signs and symptoms of a mental disorder.

(8) "Postpartum" means the first 6 weeks after delivery.

(9) "Prehearing confinement" means a short-term, nonpunitive housing status that is used to safely and securely control high-risk or at-risk inmates.

(10) "Protective custody" means a form of separation from the general population for an inmate who requests or requires protection from other inmates for reasons of health or safety.

(11) "Qualified mental health professional" includes psychiatrists, psychologists, psychiatric social workers, licensed professional counselors, psychiatric nurses, or others who, by virtue of their education, credentials, and experience, are permitted by law to evaluate and care for the mental health needs of patients.

(12) "Restrictive housing" means a placement that requires an inmate to be confined to a cell for at least 22 hours a day for the safe and secure operation of the facility. The term includes administrative segregation, protective custody, and disciplinary detention.

(13) "Step-down program" means an individualized program that includes a system of review and

establishes criteria to prepare an inmate for transition to the general population or the community and that involves a coordinated, multidisciplinary team approach that includes mental health, case management, and security practitioners.

(14) "Temporary confinement" has the same meaning as "prehearing confinement" as defined in this section."

- END -

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	SB0344	Title:	Allow for adult inmates at Pine Hills Youth Correctional Facility
Primary Sponsor:	Bogner, Kenneth	Status:	As Introduced

☐Significant Local Gov Impact ☐Needs to be included in HB 2 ☐Technical Concerns

☐Included in the Executive Budget ☐Significant Long-Term Impacts ☐Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance:	$0	$0	$0	$0

Description of fiscal impact: SB 344 has no fiscal impact to the Department of Corrections (DOC). SB 344 is a bill requested by DOC, updating terminology used in statute related to state youth correctional facilities. This is in response to recommendations from the Legislative Audit Division.

FISCAL ANALYSIS

Assumptions:

1. The bill removes references to the term state youth correctional facility and replaces it with correctional facility throughout the MCA, most notably in the Youth Court Act, in Title 41, Chapter 5 and Youthful Offenders in Title 52, Chap. In Section 5, the bill proposes a new definition of a correctional facility.
2. The bill removes the definition of a state youth correctional facility or any reference to Pine Hills youth correctional facility in Miles City or the contracted correctional facility for female youth.
3. In Section 17, the bill amends 41-5-1522, MCA, reiterating that a youth may not be placed in a correctional facility that does not provide sight and sound separation from adult offenders as required.
4. Section 30 amends 52-5-101, MCA, by providing that when a correctional facility previously used as a secure residential facility for youth is repurposed by the DOC for other correctional populations, the DOC must give priority to serving the needs of youth population if youth population increases sufficiently to justify the department reverting to the previous use of the facility.

NO SPONSOR SIGNATURE 2/26 — KA — 2/26/21

Sponsor's Initials *Date* *Budget Director's Initials* *Date*

MINUTES

MONTANA SENATE
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on February 27, 2021 at 11:00 AM, in Room 303 Capitol

ROLL CALL

Members Present in the Committee Room:

Sen. Keith Regier, Chair (R)
Sen. Tom McGillvray, Vice Chair (R)
Sen. Bryce Bennett (D)
Sen. Bob Brown (R)
Sen. John Esp (R)
Sen. Chris Friedel (R)
Sen. Jen Gross (D)
Sen. Steve Hinebauch (R)
Sen. Theresa Manzella (R)

Members Present by Zoom Video Conference:

Sen. Diane Sands, Vice Chair (D)
Sen. Susan Webber (D)

Members Excused: None

Members Absent: None

Staff Present: Julianne Burkhardt, Legislative Branch
Taylor Tyson, Remote Meeting Coordinator
Jacelyn Sterling, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted:	SB 361, 2/25/2021; SB 366, 2/25/2021; SB 344, 2/25/2021; SB 365, 2/25/2021; SB 370, 2/25/2021; SB 353, 2/25/2021
Executive Action:	SB 365 Do Pass; SB 353 Do Pass; SB 361 Do Pass, SB 344 Be Tabled, SB 366 Be Tabled; SB 370 Do Pass - will report out of committee when the fiscal note is received.

11:00:53 Chair Regier

HEARING ON SB 361

Opening Statement by Sponsor:

11:01:21 Sen. Brian Hoven (R), SD 13, opened the hearing on SB361, Generally revise laws to establish certificate of rehabilitation.

11:01:41 Sen. Webber joined the meeting.

Proponents' Testimony:

11:02:22 Patrick Webb, Americans for Prosperity Montana (AFP)

11:03:03 Sen. Sands joined the meeting.

11:06:56 Steve Cape, Montana Coalition of Safety and Justice (MTCSJ)
11:10:57 Bridger Mahlum, Montana Chamber of Commerce
11:13:06 SK Rossi, Montana Innocence Project (MTIP)
11:14:13 Sam Forstag, American Civil Liberties Union (ACLU)
11:14:52 Keaton Sunchild, Western Native Voice
11:15:22 Beth Brenneman, Disabilities Rights Montana
11:16:02 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
11:16:53 SJ Howell, Montana Women Vote

Opponents' Testimony:

EXHIBIT(jus42a01)

Informational Testimony: None

Questions from Committee Members and Responses:

11:18:34 Chair Regier
11:19:26 Mr. Webb, AFP
11:19:56 Mr. Cape, MTCSJ
11:20:52 Chair Regier
11:20:58 Mr. Cape
11:21:04 Sen. Hinebauch
11:21:22 Mr. Webb
11:21:33 Sen. Sands
11:22:06 Sen. Hoven
11:22:30 Sen. Sands
11:23:46 Ms. Young, MCADSV
11:24:19 Sen. Sands
11:24:43 Chair Regier
11:24:51 Sen. Sands
11:25:04 Sen. Webber
11:25:11 Sen. Manzella
11:26:30 Mr. Cape
11:28:17 Sen. Webber
11:29:10 Mr. Cape

11:30:32 Sen. Brown
11:31:07 Mr. Cape
11:32:57 Sen. Brown
11:33:31 Mr. Cape
11:34:51 Sen. Webber
11:35:45 Mr. Forstag, ACLU
11:36:00 Ms. Rossi, MTIP
11:37:04 Sen. Friedel
11:37:48 Mr. Cape
11:39:28 Sen. Friedel
11:40:26 Mr. Cape
11:41:01 Sen. Friedel
11:41:22 Mr. Cape
11:42:38 Sen. McGillvray
11:42:55 Mr. Cape
11:43:34 Sen. McGillvray
11:43:59 Mr. Cape

Closing by Sponsor:
11:45:45 Sen. Hoven

HEARING ON SB 366

Opening Statement by Sponsor:
11:47:26 Sen. Carl Glimm (R), SD 2, opened the hearing on SB366, Revise judicial standards commission complaint process.

Proponents' Testimony:
11:51:39 Laurie Little Dog, Bozeman
11:53:13 Clemente Arciga, Missoula
EXHIBIT(jus42a02)

11:54:09 Josh Butterfly, Opening Doors, Great Falls
11:55:40 Marcos Bullchild, Great Falls

Opponents' Testimony:
11:56:10 Mike Menahan, district court judge, 1st Judicial District Court
12:07:08 Mike Swingley, justice of the peace, Lewis and Clark County
12:11:39 Bruce Spencer, State Bar of Montana
12:17:14 Randal Spaulding, district court judge, 14th Judicial District Court
EXHIBIT(jus42a03)

Informational Testimony: None

Questions from Committee Members and Responses:
12:20:31 Sen. Manzella
12:22:31 Mr. Spencer, State Bar
12:22:53 Sen. Manzella
12:23:28 Mr. Menahan, 1st Judicial District Court
12:23:38 Sen. Manzella

12:23:43 Mr. Menahan
12:23:57 Sen. McGillvray
12:24:16 Sen. Glimm
12:24:40 Sen. Brown
12:25:43 Sen. McGillvray
12:26:34 Sen. Glimm
12:26:47 Sen. McGillvray
12:26:53 Sen. Brown
12:30:28 Mr. Menahan
12:30:47 Chair Regier
12:31:58 Mr. Menahan
12:34:10 Sen. McGillvray
12:34:41 Mr. Menahan

Closing by Sponsor:
12:35:45 Sen. Glimm

HEARING ON SB 344

Opening Statement by Sponsor:
12:36:26 Sen. Kenneth Bogner (R), SD 19, opened the hearing on SB344, Allow for adult inmates at Pine Hills Youth Correctional Facility.

Proponents' Testimony:
12:39:33 Brian Gootkin, director, Department of Corrections (COR)

Opponents' Testimony:
12:40:02 Beth Brenneman, Disability Rights Montana
12:43:49 Sam Forstag, American Civil Liberties Union (ACLU)
12:45:25 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
12:46:50 Josh Butterfly, Opening Doors, Great Falls
EXHIBIT(jus42a04)

12:48:58 SJ Howell, Montana Women Vote
12:49:53 Clemente Arciga, Missoula
EXHIBIT(jus42a05)

12:52:03 Laurie Little Dog, Bozeman
EXHIBIT(jus42a06)

Informational Testimony:
12:52:43 Kimberly Timm, Financial Services Bureau chief, COR
12:53:06 Steve Ray, superintendent, Pine Hills Youth Correctional Facility, COR
12:53:24 Cynthia Wolken, deputy director, COR
12:53:40 Colleen Ambrose, chief legal council, COR

Questions from Committee Members and Responses:
12:53:58 Sen. Hinebauch
12:54:22 Mr. Gootkin, COR

12:54:32 Chair Regier
12:54:56 Mr. Gootkin
12:55:11 Ms. Ambrose, COR
12:57:13 Sen. Sands
12:57:28 Ms. Wolken, COR
12:58:59 Sen. Sands
12:59:33 Ms. Wolken
13:00:29 Sen. Sands
13:00:34 Sen. Manzella
13:00:58 Mr. Gootkin
13:01:11 Ms. Wolken
13:02:26 Sen. Brown
13:04:31 Mr. Ray, COR
13:04:50 Chair Regier
13:05:01 Mr. Ray
13:05:33 Chair Regier

Closing by Sponsor:
13:05:43 Sen. Bogner

13:06:04 Vice Chair McGillvray assumed the duties of the chair.

HEARING ON SB 365

Opening Statement by Sponsor:
13:06:20 Sen. Keith Regier (R), SD 3, opened the hearing on SB365, Generally revise and reorganize driving under the influence laws.

Proponents' Testimony:
13:07:33 Cory Swanson, Montana County Attorneys' Association (MCAA)
13:14:45 Derek Oestreicher, general counsel, Attorney General's Office, Department of Justice (DOJ)
13:15:30 Brain Thompson, Montana Sheriffs and Peace Officers Association
13:16:09 Jesse Luther, Association of Montana Troopers
13:17:07 Shelby DeMars, Montana Police Protective Association
13:17:58 Laurie Little Dog, Bozeman

Opponents' Testimony:
13:18:18 Sam Forstag, American Civil Liberties Union

Informational Testimony: None

Questions from Committee Members and Responses:
13:19:22 Sen. Friedel
13:20:56 Mr. Oestreicher, DOJ
13:21:19 Sen. Friedel
13:21:55 Mr. Oestreicher
13:22:16 Sen. Esp
13:22:29 Chair Regier
13:22:41 Sen. Manzella

13:23:01 Mr. Swanson, MCAA

Closing by Sponsor:
13:24:37 Sen. Regier

13:24:58 Sen. Regier resumed the duties of the chair.

HEARING ON SB 370

Opening Statement by Sponsor:
13:25:41 Sen. Jason Ellsworth (R), SD 43, opened the hearing on SB370, Protecting constitutional rights during an emergency.

Proponents' Testimony:
13:30:55 Cathy Carlson, Helena

Additional Testimony Received:
EXHIBIT(jus42a07)

Opponents' Testimony:
EXHIBIT(jus42a08)

Informational Testimony: None

Questions from Committee Members and Responses:
13:32:59 Sen. Esp
13:33:52 Sen. Ellsworth
13:35:43 Sen. McGillvray
13:36:34 Sen. Ellsworth
13:37:04 Sen. McGillvray
13:38:07 Sen. Ellsworth
13:39:07 Sen. Esp
13:39:27 Sen. Ellsworth
13:39:46 Sen. Esp
13:39:51 Sen. Regier
13:39:59 Sen. Ellsworth

Closing by Sponsor:
13:40:12 Sen. Ellsworth

HEARING ON SB 353

Opening Statement by Sponsor:
13:41:40 Sen. Jen Gross (D), SD 25, opened the hearing on SB353, Require probation/parole officers to inform re: restoration of rights.

Proponents' Testimony:
13:52:05 Patrick Webb, Americans for Prosperity Montana
13:52:37 Sam Forstag, American Civil Liberties Union
13:53:46 Jim Lochrie, citizen

13:59:38 Sen. Regier
13:59:51 Mr. Lochrie

Opponents' Testimony: None

Informational Testimony:
14:01:38 Brian Gootkin, director, Department of Corrections (COR)

Questions from Committee Members and Responses:
14:02:02 Sen. Friedel
14:02:57 Mr. Gootkin, COR
14:03:08 Sen. Sands
14:03:27 Mr. Gootkin
14:03:37 Chair Regier

Closing by Sponsor:
14:03:53 Sen. Gross

Committee Business:
14:05:43 Chair Regier
14:05:51 Sen. Sands

14:05:57 Recess
14:16:04 Reconvene

EXECUTIVE ACTION ON SB 361

14:16:23 **Motion:** Sen. McGillvray moved that **SB 361 DO PASS**.

Discussion:
14:16:32 Sen. Friedel

14:16:59 **Vote:** Motion carried unanimously by roll call vote.

EXECUTIVE ACTION ON SB 366

14:17:36 **Motion/Vote:** Sen. McGillvray moved that **SB 366 BE TABLED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 344

14:18:16 **Motion:** Sen. McGillvray moved that **SB 344 DO PASS**.

Discussion:
14:18:24 Sen. Sands
14:19:08 Sen. Esp
14:19:28 Sen. Webber
14:20:58 Chair Regier

14:21:25 **Vote:** Motion failed 5-6 by roll call vote with Sen. Esp, Sen. Hinebauch, Sen. McGillvray, Sen. K. Regier and Sen. Sands voting aye.

14:21:58 **Motion/Vote:** Sen. McGillvray moved that **SB 344 BE TABLED**. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 365

14:22:26 **Motion:** Sen. McGillvray moved that **SB 365 DO PASS**.

Discussion:
14:22:37 Sen. Friedel
14:22:52 Sen. Webber

14:23:16 **Vote:** Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 370

14:23:42 **Motion:** Sen. McGillvray moved that **SB 370 DO PASS**.

Discussion:
14:23:50 Sen. Esp

14:24:15 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no. (bill not reported out of committee pending receipt of the fiscal note)

EXECUTIVE ACTION ON SB 353

14:25:18 **Motion:** Sen. Gross moved that **SB 353 DO PASS**.

Discussion:
14:25:29 Sen. Webber
14:26:45 Sen. Manzella
14:27:01 Sen. McGillvray
14:27:37 Sen. Hinebauch

14:28:07 **Vote:** Motion carried 8-3 by roll call vote with Sen. Esp, Sen. Hinebauch and Sen. K. Regier voting no.

14:28:43 Chair Regier

ADJOURNMENT

Adjournment: 2:29 PM

_____
Jacelyn Sterling, Secretary

js

Additional Documents:

EXHIBIT(jus42aad.pdf)

SENATE JUDICIARY
Exhibit No. 4
Date: 2.27.2021
Bill No. SB 344

From: leg-noreply@mt.gov
To: LEG Applications Email Backup; LEG Committee-Senate Judiciary testimony
Subject: Public Comment for Bill SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary Successfully Submitted on 02-26-21 08:29
Date: Friday, February 26, 2021 8:29:51 AM

Details:
Bill: SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary
Position: Opponent
Representing an Entity/Another Person: Yes
Organization: Opening Doors
Name: Josh Butterfly
Email: butterflyjosh4@gmail.com
Phone: (406) 217-6518
City, State: Great falls
Written Statement: Strongly oppose his bill cause it will allow for the department of corrections to be free of any legal ramifications due to adult offenders already being housed in the juvenile facilities.
Files:
Testify via Zoom: Yes
Zoom Method: Phone

SENATE JUDICIARY
Exhibit No. 5
Date: 2.27.2021
Bill No. SB 344

From: leg-noreply@mt.gov
To: LEG Applications Email Backup; LEG Committee-Senate Judiciary testimony
Subject: Public Comment for Bill SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary Successfully Submitted on 02-26-21 15:39
Date: Friday, February 26, 2021 3:39:55 PM

Details:
Bill: SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary
Position: Opponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Clemente Arciga
Email: clementearciga@aol.com
Phone: (406) 529-4799
City, State: Missoula
Written Statement: Why is this bill up? It was clearly stated that it it agains the law/contract to use this facility for adults. Why is this bill transferred to another representative? We do not need more cages. Can we look at treatment and helping people to understand and become a good member of society?
Files:
Testify via Zoom: Yes
Zoom Method: Phone

SENATE JUDICIARY

Exhibit No. 6

Date: 2.27.2021

Bill No. SB 344

From:	leg-noreply@mt.gov
To:	LEG Applications Email Backup; LEG Committee-Senate Judiciary testimony
Subject:	Public Comment for Bill SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary Successfully Submitted on 02-26-21 16:42
Date:	Friday, February 26, 2021 4:42:03 PM

Details:
Bill: SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary
Position: Opponent
Representing an Entity/Another Person: No
Organization: N/A
Name: Laurie Little Dog
Email: LaurieLittleDog@gmail.com
Phone: (406) 308-3378
City, State: Bozeman, MT
Written Statement: My name is Laurie Little Dog and I rise in strong opposition of SB 344. This bill would reward unlawful behavior by a state agency with access to expand their operations that hurt Montana citizens at large. This is a means to expand the prison industrial complex simply because the commandeered a facility that they did not have legal right to.
This is a BAD bill that will cost the state a lot of money because gives the DOC Many many more beds that costs the state a LOT of money to house inmates per year. Taxpayers say NO way! We do not want to give DOC a means to incarcerate more people. This bad bill gives the DOC the means to fill yet another prison (human warehouse) when they should be providing meaningful rehabilitation with the people they already have.

Please... "Just say NO to SB-344."
Files:
Testify via Zoom: Yes
Zoom Method: Computer

From:	leg-noreply@mt.gov
To:	LEG Applications Email Backup; LEG Committee-Senate Judiciary testimony
Subject:	Public Comment for Bill SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary Successfully Submitted on 02-26-21 15:44
Date:	Friday, February 26, 2021 3:44:28 PM

Details:
Bill: SB-344: Allow for adult inmates at Pine Hills Youth Correctional Facility 2021-02-27 09:00 AM - (S) Judiciary
Position: Opponent
Representing an Entity/Another Person: Yes
Organization: #LetThemComeHome and incarcerated persons in MT
Name: Laurie Little Dog
Email: Letthemcomehome@gmail.com
Phone: (406) 404-1742
City, State: Bozeman, MT
Written Statement: I rise in strong opposition to HB344. The members of the Judicial, Law Enforcement and Justice Joint Sub-committee for Section D of House Bill 2 found that the Department of Corrections has been in violation of law for years and continues to be in violation of Montana statute by holding adult offenders at Pine Hills. Why is Montana allowing this State agency (DOC) to habitually break the law, and then upon finding of guilt, try and have the law to conform to them?
#LetThemComeHome strongly opposes allowing bad actors to continue on in their practices and gifting them a "free prison" to incarcerate even more Montana citizens.

#LetThemComeHome encourages a NO vote on SB344! Lets not condone or reward criminal behaviors committed by the State.
Files:
Testify via Zoom: Yes
Zoom Method: Computer

MINUTES

MONTANA SENATE
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Keith Regier, on March 1, 2021 at 12:00 P.M., in Room 303 Capitol

ROLL CALL

Members Present in the Committee Room:

Sen. Keith Regier, Chair (R)
Sen. Tom McGillvray, Vice Chair (R)
Sen. Bryce Bennett (D)
Sen. Bob Brown (R)
Sen. John Esp (R)
Sen. Chris Friedel (R)
Sen. Jen Gross (D)
Sen. Steve Hinebauch (R)
Sen. Theresa Manzella (R)

Members Present by Zoom Video Conference:

Sen. Diane Sands, Vice Chair (D)
Sen. Susan Webber (D)

Members Excused: None

Members Absent: None

Staff Present: Julianne Burkhardt, Legislative Branch
Taylor Tyson, Remote Meeting Coordinator
Jacelyn Sterling, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Executive Action: Reconsider Action on SB 344; Do Pass

12:00:47 Chair Regier

EXECUTIVE ACTION ON SB 344

12:01:01 **Motion/Vote:** Sen. McGillvray moved to **RECONSIDER THE ACTION PREVIOUSLY TAKEN ON SB 344**. Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

12:02:02 Chair Regier

12:02:13 **Motion:** Sen. McGillvray moved that **SB 344 DO PASS**.

Discussion:

12:02:22 Chair Regier
12:02:59 Sen. Gross
12:03:35 Sen. Esp
12:03:59 Scott Sales
12:04:05 Sen. Friedel
12:04:35 Mr. Sales
12:05:23 Sen. Friedel
12:05:35 Mr. Sales
12:05:44 Sen. Webber

12:06:31 **Vote:** Motion carried 7-4 by roll call vote with Sen. Bennett, Sen. Gross, Sen. Sands and Sen. Webber voting no.

ADJOURNMENT

Adjournment: 12:07 PM

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Jacelyn Sterling, Secretary

js

Additional Documents:

EXHIBIT(jus43aad.pdf)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Amy Regier, on April 14, 2021 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Kathy Kelker, Vice Chair (D)
Rep. Amy Regier, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Laurie Bishop (D)
Rep. Jennifer Carlson (R)
Rep. Robert Farris-Olsen (D)
Rep. Frank Fleming (R)
Rep. Tom France (D)
Rep. Jane Gillette (R)
Rep. Donavon Hawk (D)
Rep. Jedediah Hinkle (R)
Rep. Dennis R. Lenz (R)
Rep. Brandon Ler (R)
Rep. Bob Phalen (R)
Rep. Ed Stafman (D)
Rep. Mallerie Stromswold (R)
Rep. Danny Tenenbaum (D)

Members Excused:

Rep. Barry Usher, Chair (R)
Rep. Derek Skees (R)

Members Absent: None

Staff Present:

Lydia Balian, Committee Secretary
Rachel Weiss, Legislative Branch
Hallie Swain, Remote Meeting Coordinator

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: SB 400, 4/9/2021; HJ 32, 4/9/2021; HJ 34, 4/9/2021
Executive Action on: SB 318; SB 344; SB 361; SB 353; SB 365; SB 370

08:02:11 Rep. Ler assumed the chair.

HEARING ON SB 400

Opening Statement by Sponsor:
08:02:48 Sen. Theresa Manzella (R), SD 44, opened the hearing on SB 400, Restrict governmental entity from interfering with parental rights.

Proponents' Testimony:
08:09:42 Raye Newmeyer, self
08:11:08 Rep. Skees joined the meeting.
08:11:27 Tina Norcutt, self
08:12:56 Garrett Bacon, self
08:13:34 Dave Kesler, self
EXHIBIT(juh71a01)

08:18:53 Keith Newmeyer, self
08:23:07 Debbie Westlake, self
08:30:46 Dale Jolly, self
08:34:11 Mike Hagman, self
08:39:05 Rep. Skees left the meeting.
08:39:48 Janee Webber, self
08:43:30 Robin Mohs, self
08:45:22 Denise Johnson, Montana Child Protection Alliance (MCPA)
08:46:02 Rep. Hawk left the meeting.
08:48:42 Terri Lackey, self
08:49:27 Lillie Rutledge, self
08:54:43 Alan Lackey, self
08:57:01 Lita Pepion, self

Opponents' Testimony:
08:58:14 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
09:01:49 Emily Dean, Montana School Boards Association (MTSBA)
09:03:13 Robin Turner, self
09:07:29 Dr. Elizabeth Beil, self
09:09:59 Rep. Usher joined the meeting.
09:10:32 Gail Goheen, self
09:12:46 Rep. Skees rejoined the meeting.

Informational Testimony:
09:16:19 Adam Meyer, Department of Public Health and Human Services (DPHHS)

Questions from Committee Members and Responses:
09:17:13 Rep. Berglee
09:17:33 Adam Meyer, DPHHS
09:19:03 Rep. Carlson
09:21:33 Emily Dean, MTSBA
09:22:54 Rep. Carlson
09:25:41 Sen. Manzella

09:26:27 Rep. Carlson
09:27:58 Adam Meyer, DPHHS
09:28:30 Nick Domitrovich, Department of Public Health and Human Services (DPHHS)
09:31:52 Vice Chair Kelker
09:35:12 Gail Goheen, self
09:36:36 Rep. Carlson
09:37:28 Adam Meyer, DPHHS
09:37:43 Rep. Gillette
09:37:54 Rep. Usher
09:38:23 Rep. J. Hinkle
09:39:34 Sen. Manzella
09:41:16 Rep. Phalen
09:42:14 Sen. Manzella
09:44:00 Rep. Stafman
09:44:05 Rep. J. Hinkle left the meeting.
09:44:40 Rep. Usher
09:45:23 Rep. Stafman
09:45:26 Rep. Hawk rejoined the meeting. Rep. Lenz left the meeting.
09:48:37 Gail Goheen, self
09:49:15 Rep. Gillette
09:51:28 Sen. Manzella
09:53:13 Rep. Gillette
09:55:03 Gail Goheen, self
09:55:22 Vice Chair Kelker
09:56:02 Rachel Weiss, Legislative Services Division (LSD)
09:57:22 Rep. Skees
10:00:07 Gail Goheen, self
10:00:28 Rep. Carlson
10:01:39 Sen. Manzella
10:02:44 Rep. Phalen
10:03:12 Sen. Manzella

Closing by Sponsor:
10:04:47 Sen. Manzella
EXHIBIT(juh71a02)

10:09:03 Rep. Usher assumed the chair.

HEARING ON HJ 32

Opening Statement by Sponsor:
10:10:28 Rep. Ed Stafman (D), HD 62, opened the hearing on HJ 32, Study of discrimination in Montana's criminal justice system.

Proponents' Testimony:
10:17:20 Adrian Jawort, Montana Native Voice (MNV)
10:20:15 Amy Sings In The Timber, Montana Innocence Project (MTIP)
10:22:22 Kelsen Young, Montana Coalition Against Domestic and Sexual Violence (MCADSV)
10:23:27 Jasmine Krotkov, self

10:24:56 Laurie Little Dog, self
10:26:07 Myshell Lyday, Montana Association of Criminal Defense Lawyers (MTACDL)
10:27:48 Andy Werk Jr., Fort Belknap Indian Community
10:31:15 Kelly Twoteeth, self

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
10:34:31 Rep. Skees
10:41:49 Rep. Stafman
10:42:57 Chair Usher
10:42:52 Rep. Stafman
10:43:55 Vice Chair Kelker
10:44:32 Chair Usher
10:45:11 Rep. Stafman

Closing by Sponsor:
10:45:52 Rep. Stafman

10:46:02 Vice Chair Regier assumed the chair.
10:50:18 Rep. Skees
10:51:16 Vice Chair Kelker
10:51:57 Rep. Hawk
10:52:11 Rep. J. Hinkle and Rep. Lenz rejoined the meeting.

HEARING ON HJ 34

Opening Statement by Sponsor:
10:53:25 Rep. Barry Usher (R), HD 40, opened the hearing on HJ 34, Study of pretrial and presentence diversion programs.

Proponents' Testimony:
10:54:54 Nanette Gilbertson, Montana Sheriffs and Peace Officers Association (MSPOA); Montana County Attorneys Association (MCAA)
10:57:51 Amy Sings In The Timber, Montana Innocence Project (MTIP)
10:58:54 Dan Brooks, Billings Chamber of Commerce
11:00:04 Kelsie Harwood, Montana County Attorneys Association (MCAA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
11:02:06 Vice Chair Kelker
11:02:47 Rep. Usher

Closing by Sponsor:
11:05:57 Rep. Usher

11:07:35 Rep. Usher resumed the chair.
11:10:51 Rep. Phalen
11:11:24 Rep. Skees
11:11:37 Rep. Hawk

11:11:55 Recess
11:32:44 Reconvened with Rep. Phalen, Rep. Tenenbaum, and Rep. Skees excused.

EXECUTIVE ACTION ON SB 318

11:33:13 **Motion/Vote:** Rep. A. Regier moved to **RECONSIDER ACTION** on **SB 318**. Motion carried without objection.

11:33:44 **Motion:** Rep. A. Regier moved that **SB 318 BE CONCURRED IN**.

11:33:51 **Motion:** Rep. A. Regier moved that **SB 318 BE AMENDED**.
EXHIBIT(juh71a03)

Discussion:
11:34:03 Rachel Weiss, Legislative Services Division (LSD)
11:35:27 Rep. Kelker
11:36:04 Rachel Weiss, LSD
11:37:12 Rep. Stafman
11:38:14 Rachel Weiss, LSD

11:38:29 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Phalen, Rep. Skees and Rep. Tenenbaum voted by proxy.

11:39:27 **Motion/Vote:** Rep. A. Regier moved that **SB 318 BE CONCURRED IN AS AMENDED**. Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Phalen, Rep. Skees and Rep. Tenenbaum voted by proxy. Rep. Ler will carry the bill.

EXECUTIVE ACTION ON SB 344

11:40:54 **Motion:** Rep. A. Regier moved that **SB 344 BE CONCURRED IN**.

Discussion:
11:41:01 Rachel Weiss, LSD
11:41:22 Chair Usher
11:41:38 Vice Chair Kelker
11:42:00 Rachel Weiss, LSD
11:43:44 Vice Chair Kelker
11:44:03 Rep. Bishop
11:45:19 Rep. Carlson
11:45:40 Vice Chair Kelker

11:47:00 Rep. Ler left the meeting.
11:46:13 Rep. Carlson

11:47:49 **Vote:** Motion carried 10-9 by roll call vote with Rep. Bishop, Rep. Carlson, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. J. Hinkle, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Ler, Rep. Phalen, Rep. Skees and Rep. Tenenbaum voted by proxy. Rep. Patelis will carry the bill.

EXECUTIVE ACTION ON SB 361

11:49:40 **Motion:** Rep. A. Regier moved that **SB 361 BE CONCURRED IN**.

Discussion:
11:50:32 Rep. France
11:54:56 Rep. J. Hinkle

11:55:11 **Motion:** Rep. France moved that **SB 361 BE AMENDED**.
EXHIBIT(juh71a04)

Discussion:
11:55:34 Rep. J. Hinkle
11:56:17 Rep. Berglee

11:56:52 **Vote:** Motion carried 10-9 by roll call vote with Rep. Berglee, Rep. Carlson, Rep. Fleming, Rep. Ler, Rep. Phalen, Rep. A. Regier, Rep. Skees, Rep. Stromswold and Rep. Usher voting no. Rep. Ler, Rep. Phalen, Rep. Skees and Rep. Tenenbaum voted by proxy.

11:57:44 **Motion:** Rep. A. Regier moved that **SB 361 BE CONCURRED IN AS AMENDED**.

Discussion:
11:58:09 Rep. Gillette
12:00:08 Rep. J. Hinkle
12:00:31 Rep. Skees rejoined the meeting.
12:01:03 Rep. France
12:01:57 Chair Usher

12:02:35 **Vote:** Motion carried 12-7 by roll call vote with Rep. Carlson, Rep. Gillette, Rep. Ler, Rep. Phalen, Rep. A. Regier, Rep. Skees and Rep. Usher voting no. Rep. Ler, Rep. Phalen and Rep. Tenenbaum voted by proxy. Rep. France will carry the bill.

EXECUTIVE ACTION ON SB 353

12:03:53 **Motion:** Rep. A. Regier moved that **SB 353 BE CONCURRED IN**.

Discussion:
12:04:06 Rachel Weiss, LSD
12:04:46 Rep. France, Rep. Hawk, and Rep. Fleming left the meeting.
12:06:13 Vice Chair Kelker

12:06:24 **Vote:** Motion failed 9-10 by roll call vote with Rep. Bishop, Rep. Carlson, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman, Rep. Stromswold and Rep. Tenenbaum voting aye. Rep. Fleming, Rep. France, Rep. Hawk, Rep. Ler, Rep. Phalen and Rep. Tenenbaum voted by proxy.

12:07:34 **Motion/Vote:** Rep. A. Regier moved that **SB 353 BE TABLED**. Motion carried without objection.

EXECUTIVE ACTION ON SB 365

12:08:11 **Motion:** Rep. A. Regier moved that **SB 365 BE CONCURRED IN**.

Discussion:
12:08:18 Rachel Weiss, LSD

12:08:34 **Vote:** Motion carried unanimously by roll call vote. Rep. Fleming, Rep. France, Rep. Hawk, Rep. Ler, Rep. Phalen and Rep. Tenenbaum voted by proxy. Rep. Regier will carry the bill.

EXECUTIVE ACTION ON SB 370

12:09:49 **Motion:** Rep. A. Regier moved that **SB 370 BE CONCURRED IN**.

Discussion:
12:10:09 Rachel Weiss, LSD
12:10:27 Chair Usher

12:10:58 **Substitute Motion/Vote:** Rep. Kelker made a substitute motion that **SB 370 BE TABLED**. Substitute Motion failed 7-12 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Fleming, Rep. France, Rep. Hawk, Rep. Ler, Rep. Phalen and Rep. Tenenbaum voted by proxy.

12:12:07 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. France, Rep. Hawk, Rep. Ler, Rep. Phalen and Rep. Tenenbaum voted by proxy. Rep. Ler will carry the bill.

EXECUTIVE ACTION ON SB 315

12:13:40 **Motion:** Rep. A. Regier moved that **SB 315 BE CONCURRED IN**.

Discussion:
12:13:56 Rachel Weiss, LSD

12:14:07 **Substitute Motion:** Rep. Skees made a substitute motion to **ADJOURN**.

Discussion:
12:14:32 Rep. Bishop

12:14:56 **Vote:** Motion carried 8-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. France, Rep. Hawk and Rep. Tenenbaum voted by proxy.

ADJOURNMENT

Adjournment: 12:16:19

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Lydia Balian, Secretary

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Additional Documents:

EXHIBIT(juh71aad.pdf)

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
67th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: Chair Barry Usher, on March 26, 2021 at 8:00 AM, in Room 137 Capitol

ROLL CALL

Members Present:

Rep. Kathy Kelker, Vice Chair (D)
Rep. Amy Regier, Vice Chair (R)
Rep. Seth Berglee (R)
Rep. Laurie Bishop (D)
Rep. Jennifer Carlson (R)
Rep. Robert Farris-Olsen (D)
Rep. Tom France (D)
Rep. Donavon Hawk (D)
Rep. Jedediah Hinkle (R)
Rep. Dennis R. Lenz (R)
Rep. Bob Phalen (R)
Rep. Derek Skees (R)
Rep. Ed Stafman (D)
Rep. Danny Tenenbaum (D)

Members Excused:

Rep. Barry Usher, Chair (R)
Rep. Frank Fleming (R)
Rep. Jane Gillette (R)
Rep. Brandon Ler (R)
Rep. Mallerie Stromswold (R)

Members Absent: None

Staff Present:

Joanne Kauzlarich, Committee Secretary
Rachel Weiss, Legislative Branch
Hallie Swain, Remote Meeting Coordinator

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:
Hearing & Date Posted: SB 280, 3/23/2021; SB 283, 3/23/2021; SB 315, 3/23/2021; SB 344, 3/23/2021
Executive Action: SB 83; SB 338; SB 354; SB 370

8:01:00 Vice Chair Regier assumed the Chair.

HEARING ON SB 344

Opening Statement by Sponsor:

08:02:24 Sen. Kenneth Bogner (R), SD 19, opened the hearing on SB 344, Allow for adult inmates at Pine Hills Youth Correctional Facility.

08:04:30 Rep. Stromswold joined the meeting.

Proponents' Testimony:

08:05:21 Cynthia Wolken, Department of Corrections (DOC)
08:06:49 Steve Ray, Pine Hills Correctional Facility
08:07:33 Rep. Skees left the meeting.

Opponents' Testimony:

08:08:06 Sam Forstag, American Civil Liberties Union (ACLU)
08:10:18 Beth Brennemen, Disability Rights Montana (DRM)
08:10:47 Rep. Ler joined the meeting.
08:15:29 SJ Howell, Montana Women Vote (MWV)
08:16:38 Laurie Little Dog, self
08:18:54 Shawn Reagor, Montana Human Rights Network (MHRN); Montana Coalition Against Domestic & Sexual Violence (MCADSV)

Proponents:

08:19:50 Larry Nielsen, Montana Federation of Public Employees (MFPE)

Informational Testimony:

08:20:31 Colleen Ambrose, Department of Corrections (DOC)

Questions from Committee Members and Responses:

08:20:56 Vice Chair Kelker
08:21:44 Colleen Ambrose, DOC
08:22:01 Cynthia Wolken, DOC
08:22:27 Vice Chair Kelker
08:23:13 Cynthia Wolken, DOC
08:24:00 Vice Chair Kelker
08:24:30 Cynthia Wolken, DOC
08:24:39 Rep. Tenenbaum
08:25:14 Cynthia Wolken, DOC
08:26:48 Rep. Tenenbaum
08:27:35 Cynthia Wolken, DOC
08:28:26 Rep. Phalen
08:30:05 Cynthia Wolken, DOC
08:30:25 Rep. Berglee
08:31:00 Cynthia Wolken, DOC
08:31:55 Rep. Carlson
08:32:41 Beth Brennemen, DRM

08:33:02 Rep. Carlson
08:33:38 Sam Forstag, ACLU

Closing by Sponsor:
08:33:58 Sen. Bogner

HEARING ON SB 280

Opening Statement by Sponsor:
08:35:16 Sen. Carl Glimm (R), SD 2, opened the hearing on SB 280, Revise vital statistics laws regarding sex designation on birth certificate.

Proponents' Testimony:
08:38:27 Jeff Laszloffy, Montana Family Foundation (MFF)
08:42:10 Rep. Skees joined the meeting.
08:43:12 Donna Elford, self
08:45:48 Michael Wells, self

Opponents' Testimony:
08:46:42 Laurel Hesse, American Civil Liberties Union (ACLU)
08:48:38 Rep. Lenz left the meeting.
08:49:54 Adrian Jawort, Montana Native Voice (MNV)
08:54:06 Rachel Schmidt, Associated Students of Montana State University (ASMSU)
08:54:25 Jack Rinck, Associated Students of University of Montana (ASUM)
08:54:49 Shawn Reagor, Montana Human Rights Network (MHRN)
08:57:45 Kelli Twoteeth, self
08:59:54 Allison Reinhardt, Montana Associated Students (MAS)
09:00:22 Dr. Kathryn Lowe, Montana Chapter of American Academy of Pediatrics (MTAAP)
09:03:33 Zuri Moreno, Indigenous Organizers Collective
09:06:33 SJ Howell, Montana Women Vote (MWV)
09:09:59 Anna Peterson, self
09:12:44 Izzy Milch, Forward Montana
09:14:10 Sydney Barry, Montana Coalition Against Domestic & Sexual Violence (MCADSV)
09:14:43 Dr. Lauren Wilson, Montana Chapter of American Academy of Pediatrics (MTAAP)

Informational Testimony: None

Questions from Committee Members and Responses:
09:17:07 Rep. Hawk
09:17:37 Shawn Reagor, MHRN
09:19:37 Rep. J. Hinkle
09:21:44 Izzy Milch, Forward Montana
09:21:54 Rep. J. Hinkle
09:22:16 Izzy Milch, Forward Montana
09:22:53 Vice Chair Kelker
09:23:45 Laurel Hesse, ACLU

09:24:25 Rep. Skees
09:25:25 Dr. Lauren Wilson, MTAAP
09:26:29 Rep. Skees
09:26:52 Dr. Lauren Wilson, MTAAP
09:27:54 Rep. Skees
09:34:04 Laurel Hesse, ACLU
09:34:56 Rep. Phalen
09:37:34 Laurel Hesse, ACLU
09:38:07 Rep. Carlson
09:38:30 Dr. Lauren Wilson, MTAAP
09:38:11 Rep. Carlson
09:38:32 Dr. Lauren Wilson, MTAAP
09:38:49 Rep. Carlson
09:39:00 Dr. Kathryn Lowe, MTAAP
09:39:13 Rep. Carlson
09:39:21 Dr. Kathryn Lowe, MTAAP
09:39:27 Chair Regier
09:39:38 Rep. Bishop
09:39:58 Shawn Reagor, MHRN
09:41:09 Rep. Bishop
09:42:17 Laurel Hesse, ACLU
09:43:03 Rep. Stafman
09:44:12 Dr. Lauren Wilson, MTAAP
09:45:27 Rep. Stafman
09:45:46 Dr. Lauren Wilson, MTAAP
09:46:08 Rep. J. Hinkle
09:48:32 Laurel Hesse, ACLU
09:49:06 Rep. J. Hinkle
09:50:18 Sen. Glimm
09:51:37 Rep. Berglee
09:52:00 Shawn Reagor, MHRN
09:52:06 Rep. Berglee
09:52:16 Shawn Reagor, MHRN
09:52:22 Rep. Skees
09:53:12 Jeff Laszloffy, MFF
09:53:18 Rep. Berglee assumed the Chair.
09:54:23 Rep. Skees
09:55:19 Jeff Laszloffy, MFF
09:57:09 Vice Chair Kelker
09:57:32 Rep. Ler
09:57:41 Vice Chair Kelker
09:58:20 Chair Berglee
09:58:31 Dr. Lauren Wilson, MTAAP

Closing by Sponsor:
09:59:47 Sen. Glimm

10:00:08 Chair A. Regier assumed the Chair.

HEARING ON SB 283

Opening Statement by Sponsor:
10:01:23 Sen. Carl Glimm (R), SD 2, opened the hearing on SB 283, Generally revise laws regarding firearms on school grounds.

Proponents' Testimony:
10:07:42 Michael Wells, self
10:08:24 Debra Silk, Montana School Board Association (MTSBA)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:
10:09:28 Rep. Kelker
10:10:15 Debra Silk, MTSBA
10:11:29 Rep. Tenenbaum
10:11:59 Debra Silk, MTSBA

Closing by Sponsor:
10:12:36 Sen. Glimm

HEARING ON SB 315

Opening Statement by Sponsor:
10:13:43 Sen. David Howard (R), SD 29, opened the hearing on SB 315, Adopt the Born-Alive Infant Protection Act.

Proponents' Testimony:
10:14:48 Matt Brower, Montana Catholic Conference
10:16:42 Jeff Laszloffy, Montana Family Foundation (MFF)
10:20:08 Glenn Oppel, Governor's Office (GOV)
10:22:59 Jacob Corcoran, self
10:24:47 Donna Elford, self
EXHIBIT(juh60a01)
10:26:23 Rep. Stromswold left the meeting.
10:26:47 Michael Wells, self
10:27:53 Dennison Rivera, Lewis and Clark County Young Republicans (LCCYRMT)
10:31:17 Kaitlyn Ruch, Students for Life
10:35:08 Ruth Rater, self
10:35:32 Cindy Hoy self
10:36:37 Joanne Friesen, self
10:39:36 Darin Gaub, self

Opponents' Testimony:
10:42:34 Caelen McQuilkin, self
10:44:53 Iko'tsimiskimaki Beck, self

Informational Testimony: None

Questions from Committee Members and Responses:

10:45:45 Rep. J. Hinkle
10:46:20 Caelen McQuilkin, self
10:47:13 Rep. J. Hinkle
10:47:19 Caelen McQuilkin, self
10:48:04 Rep. J. Hinkle
10:48:21 Rep. Phalen
10:48:33 Caelen McQuilkin, self
10:48:58 Rep. Skees
10:49:34 Caelen McQuilkin, self
10:50:05 Rep. Skees
10:50:40 Caelen McQuilkin, self
10:51:33 Rep. Skees
10:52:08 Caelen McQuilkin, self
10:52:52 Rep. Skees
10:54:03 Rep. Phalen
10:54:36 Sen. Howard
10:54:53 Rep. Skees

Closing by Sponsor:

10:55:15 Sen. Howard

10:55:59 Chair A. Regier

10:56:56 Recessed
11:24:24 Reconvened as Rep. Usher assumed the Chair with Rep. Ler excused.

EXECUTIVE ACTION ON SB 83

11:24:28 **Motion:** Rep. A. Regier moved that **SB 83 BE CONCURRED IN**.

Discussion:

11:24:52 Rachel Weiss, Legislative Services Division (LSD)

11:25:23 **Vote:** Motion carried 16-3 by roll call vote with Rep. Farris-Olsen, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. Gillette, Rep. Lenz, Rep. Ler and Rep. Stromswold voted by proxy. Rep. Ler will carry the bill.

EXECUTIVE ACTION ON SB 338

11:27:33 **Motion:** Rep. A. Regier moved that **SB 338 BE CONCURRED IN**.

Discussion:

11:27:42 Rachel Weiss, LSD

11:28:02 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. Gillette, Rep. Lenz, Rep. Ler and Rep. Stromswold voted by proxy. Rep. Phalen will carry the bill.

EXECUTIVE ACTION ON SB 354

11:29:36 **Motion:** Rep. A. Regier moved that **SB 354 BE CONCURRED IN**.

Discussion:
11:29:44 Rachel Weiss, LSD

11:30:13 **Motion:** Rep. A. Regier moved that **SB 354 BE AMENDED.**
EXHIBIT(juh60a02)

Discussion:
11:30:23 Rachel Weiss, LSD
11:31:47 Vice Chair Kelker
11:32:05 Chair Usher
11:32:11 Vice Chair Kelker
11:32:09 Chair Usher
11:32:28 Rep. Tenenbaum

11:32:32 **Motion/Vote:** Rep. Tenenbaum moved to **PASS CONSIDERATION ON SB 354**. Motion failed 7-12 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting aye. Rep. Fleming, Rep. Gillette, Rep. Lenz, Rep. Ler and Rep. Stromswold voted by proxy.

11:34:39 Rep. Stafman
11:35:11 Rachel Weiss, LSD
11:35:50 Rep. France
11:36:04 Chair Usher
11:36:19 Rep. France

11:38:02 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. Gillette, Rep. Lenz, Rep. Ler and Rep. Stromswold voted by proxy.

11:39:20 **Motion:** Rep. A. Regier moved that **SB 354 BE CONCURRED IN AS AMENDED.**

Discussion:
11:39:32 Rep. Tenenbaum
11:40:07 Rep. Kelker

11:41:43 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. Gillette, Rep. Lenz, Rep. Ler and Rep. Stromswold voted by proxy. Rep. Berglee will carry the bill.

EXECUTIVE ACTION ON SB 370

11:43:27 **Motion:** Rep. A. Regier moved that **SB 370 BE CONCURRED IN.**

Discussion:
11:43:33 Rachel Weiss, LSD

11:43:54 **Motion:** Rep. A. Regier moved that **SB 370 BE AMENDED.**
EXHIBIT(juh60a03)

Discussion:
11:44:08 Rep. J. Hinkle
11:45:34 Rep. Carlson
11:46:06 Rep. Kelker
11:46:34 Rep. Lenz joined the meeting.
11:48:19 Rep. Stafman
11:49:01 Rep. J. Hinkle
11:49:32 Rep. Ler joined the meeting.
11:49:46 Rep. Stafman
11:50:07 Rep. J. Hinkle
11:50:41 Rep. Skees

11:51:19 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. Gillette and Rep. Stromswold voted by proxy.

11:52:38 **Motion:** Rep. A. Regier moved that **SB 370 BE CONCURRED IN AS AMENDED.**

11:52:57 **Motion:** Rep. Skees moved that **SB 370 BE AMENDED.**
EXHIBIT(juh60a04)

Discussion:
11:53:24 Rep. Skees
11:54:04 Rep. Ler
11:54:18 Rep. Skees
11:54:39 Rachel Weiss, LSD

11:55:14 Without objection Rep. Skees withdrew his motion to **AMEND SB 370.**

11:55:26 Chair Usher
11:55:35 Rep. Phalen
11:55:38 Chair Usher
11:55:50 Rep. Skees

11:56:00 **Motion:** Rep. Skees moved that **SB 370 BE CONCEPTUALLY AMENDED BY MODIFYING AMENDMENT NUMBER SB 370.1.1 BY REMOVING THE NUMBER 4 AND INSERTING NUMBER 13 ON LINE 24, LINE 27, AND ON PAGE 3 LINE 11.**

EXHIBIT(juh60a05)

Discussion:
11:56:26 Rachel Weiss, LSD
11:56:36 Rep. Skees
11:56:41 Chair Usher
11:56:49 Rachel Weiss, LSD

11:57:03 **Vote:** Motion carried unanimously by voice vote. Rep. Fleming, Rep. Gillette and Rep. Stromswold voted by proxy.

11:57:25 **Motion:** Rep. A. Regier moved that **SB 370 BE CONCURRED IN AS AMENDED.**

Discussion:
11:57:33 Rep. Stafman

12:00:13 **Vote:** Motion carried 12-7 by roll call vote with Rep. Bishop, Rep. Farris-Olsen, Rep. France, Rep. Hawk, Rep. Kelker, Rep. Stafman and Rep. Tenenbaum voting no. Rep. Fleming, Rep. Gillette and Rep. Stromswold voted by proxy. Rep. Ler will carry the bill.

EXECUTIVE ACTION ON SB 344

12:00:43 **Motion:** Rep. A. Regier moved that **SB 344 BE CONCURRED IN**.

Discussion:
12:01:10 Rep. Bishop

12:01:34 Without objection Chair Usher made a motion to **PASS CONSIDERATION ON SB 344.**

Committee Business:
12:01:51 Rep. Hawk
12:01:55 Chair Usher
12:02:01 Rep. Skees
12:02:13 Rep. Phalen
12:02:30 Rep. Bishop
12:05:48 Rep. Skees
12:06:20 Rep. Phalen
12:06:48 Rep. Lenz

ADJOURNMENT

Adjournment: 12:06:54

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Joanne Kauzlarich, Secretary

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Additional Documents:

EXHIBIT(juh60aad.pdf)